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Indiana.

Laws concerning the
assessment of property...

Indianapolis

1901

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INDIANA

Laws Concerning the
Assessment of Property
For Taxation.....

1901

Annotated by Thomas B. Buskirk

INDIANAPOLIS:

WM. B. BURFORD, CONTRACTOR FOR STATE PRINTING AND BINDING.
1901.

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INDIANA

LAWS

CONCERNING

THE ASSESSMENT OF PROPERTY
FOR TAXATION.

—
1901.
—

ANNOTATED BY THOMAS B. BUSKIRK.

—
INDIANAPOLIS:
1901.

LAWS OF TAXATION.

AN ACT concerning taxation, repealing all laws in conflict therewith, and declaring an emergency.

[APPROVED MARCH 6, 1891.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That all taxes for the support of the government of this State shall be assessed on polls and on property listed and valued in an equal and ratable proportion (except such stocks and other property as may be specifically taxed) in the following manner, namely: The amount necessary and proper to be charged on each poll and on each hundred dollars' worth of property, for State expenditures and for school purposes, shall, from time to time, be fixed by law; and the amount to be charged on each poll and on each one hundred dollars' worth of property for county expenditures shall be determined by the Board of County Commissioners at their annual meeting in September.

Polls and
property to be
assessed.

The Constitution does not require a uniform method of valuation of property for taxation, but only such a method as will insure a just valuation. *Louisville, etc., R. R. Co. v. State ex rel.*, 25 Ind. 177.

It is not necessary that the rate of taxation shall be uniform throughout the State, but it is only required that the rate of assessment and taxation shall be uniform and equal throughout the locality in which the tax is levied. *Bright v. McCullough*, 27 Ind. 223; *Palmer v. Stump*, 29 Ind. 329; *Gilson v. Board*, 128 Ind. 65.

The right of the State to tax its citizens, and their duty to pay the same, does not rest upon contract, but is limited only by the fundamental law of the State. *DePauw v. New Albany*, 22 Ind. 294.

Neither the United States nor a State can tax the machinery or agencies employed by the other in the exercise of its governmental powers and functions. *State ex rel. v. Garton*, 32 Ind. 1.

The power of taxation is vested in the Legislature, and it has the right to provide for the rate to be assessed and the locality or district upon which the taxes are to be imposed, and courts can not interfere with such legislative acts upon the ground that they impose oppressive taxes upon the taxpayers, so long as the Legislature keeps within the limits of its authority and violates no express provision of the Constitution. *Board, etc., et al. v. State ex rel. Brown*, 147 Ind. 476.

Paid up non-forfeitable and partly paid up life insurance policies are not subject to taxation, as there is no statute providing any regulation for, or any manner of, assessing or valuing such policies. *State Board of Tax Commissioners v. Holliday*, 150 Ind. 216.

Poll tax.

SEC. 2. A poll-tax shall be assessed upon every male inhabitant of this State between the ages of twenty-one and fifty years, and every person shall be listed for his poll-tax in the township, town or city of his residence.

A poll-tax is a lien upon the real estate of the person assessed with such tax. *Isaacs v. Decker*, 41 Ind. 410.

Persons temporarily absent from the State, no matter for how long, do not lose their residence and are subject to taxation here. *Culbertson v. Board*, 52 Ind. 361.

What property taxable.

SEC. 3. All property within the jurisdiction of this State, not expressly exempted, shall be subject to taxation.

It is a legislative power to select the subjects for taxation, and the Constitution imposes the duty and limitation upon the Legislature of providing by law regulations or methods for a just valuation of all property, both real and personal, and where the Legislature does not prescribe such regulations as to any particular species of property such property can not be taxed. *State Board of Tax Commissioners v. Holliday*, 150 Ind. 216.

Property temporarily in this State awaiting shipment to the residence of the owner outside of this State is not subject to taxation here. *Standard Oil Co. v. Bachelor*, 89 Ind. 1; *Herron v. Keern*, 59 Ind. 472.

But where property is collected even though it may be at the point of final shipment, to await indefinitely the owner's pleasure or the rise of markets, or to undergo a partial process of manufacture, or for any other cause having no relation to the preparation for, or facilities or exigencies of, transportation, it will be held to have acquired a situs, making it subject to taxation here. *Standard Oil Co. v. Combs*, 96 Ind. 179; *Board, etc.*, v. *Standard Oil Co.*, 103 Ind. 302.

It is the credit, not the debt, to which value attaches and which is taxable, and it makes no difference, for the purposes of taxation, where the debtor lives or where the debt was contracted, provided, only, that the note or other evidence of the amount due the creditor is, itself, within the jurisdiction of the State. *Buck et al., Trustees, v. Miller, Treasurer*, 147 Ind. 586.

Certificates representing moneys invested in purchases at sales are property, and are taxable under the tax laws of this State, as are, also, Sheriff Sale Certificates. *State ex rel. Goodman, Prosecuting Attorney, v. Halter*, 149 Ind. 232.

It is within the legislative power to make money, stocks and choses in action outside of this State, and belonging to residents of this State, taxable in this State. *Boyer v. Jones*, 14 Ind. 354.

Where notes or other choses in action are in this State temporarily, or in the hands of an attorney for collection, and the credits thereof are owned and held in another State by a non-resident of this State, the notes or bonds so owned and held can not be taxed here, although secured by liens on property in this State. *Buck et al., Trustees, v. Miller, Treasurer*, 147 Ind. 586.

Where a business of buying and selling property, making loans and investments, and collecting and relending the money is conducted, and the notes and mortgages so used are retained in this State, they will be subject to taxation in this State, although the owner thereof may have his residence in another State, whether such business be conducted by him in person or by an agent. *Buck et al., Trustees, v. Miller, Treasurer*, 147 Ind. 586.

Evidence of debts held by non-residents of this State against a resident of this State and secured by a mortgage on lands in this State, are

not within the jurisdiction of this State and are not taxable here. *Senour v. Ruth*, 140 Ind. 318.

Where property is collected from one or more points, by any means of transportation, and is awaiting the necessary preparations and facilities for further transportation, it will be deemed to be in transit while so detained, and not liable to taxation. *Board, etc., v. Standard Oil Co.*, 103 Ind. 302.

[1895, p. 21. In force February 23, 1895.]

SEC. 4. For the purpose of taxation real property shall include all lands within the State and all buildings and fixtures thereon and appurtenances thereto excepting in cases otherwise expressly provided by law; personal property shall include all goods and chattels within the State, all ships, boats and vessels belonging to inhabitants of this State whether at home or abroad, and their appurtenances; all goods, chattels and effects belonging to inhabitants of this State situate without this State, except the property actually and permanently invested in business in another State shall not be included; all indebtedness due to inhabitants of this State above the amounts respectively owed by them whether such indebtedness is due from individuals or corporations, public or private, and whether such debtors reside within or without the State; all shares in corporations organized under the laws of this State when the property of such corporations is not exempt or is not taxable to the corporation itself; all shares in banks organized in this State under any law of the United States, but in estimating the value of such shares deductions shall be made of the value of all real estate taxed to the bank; all shares in foreign corporations except National Banks, owned by inhabitants of the State; all moneys; all circulating notes of National Banking Associations and United States legal tender notes and other notes and certificates of the United States payable on demand and circulating or intended to circulate as currency; all annuities and royalties; all interests owned by individuals in lands, the fee of which is in this State or in the United States, except as hereinafter provided. Property exempted from taxation by the laws of the United States shall not be included. Shares in corporations, all the property of which is taxable to the corporation itself, shall not be assessed to the shareholder. Lands sold by the State, including lands forfeited to the sinking fund, the university fund and all other trust funds, though not granted or conveyed, shall be assessed in the same manner as if actually conveyed. All lands reserved to or for any individual by any treaty between the United States and any Indian tribe or nation shall be liable to taxation from the time such treaty shall have been confirmed.

Realty defined.

Personalty defined.

Lands sold by the State though not conveyed taxed.

Lands reserved by the United States taxed, when.

[1893, p. 12. In force January 31, 1893.]

Property
exempt from
taxation.

SEC. 5. The following property shall be exempt from taxation:

First. The property of the United States and of this State.

Second. The property of any county, city, town or township.

Third. All lands granted for the use of the common schools, so long as the same shall remain unsold.

Fourth. The personal property and real estate of every manual labor school or college incorporated within this State when used or occupied for the purpose for which it was incorporated, such real estate not to exceed three hundred and twenty acres.

Fifth. Every building used and set apart for educational, literary, scientific or charitable purposes by any institution or by any individual or individuals, association or incorporation, or used for the same purpose by any town, township, city or county, and the tract of land on which such building is situate; also the lands purchased with the *bona fide* intention of erecting buildings for such use thereon, not exceeding forty acres; also the personal property, endowment funds, and interest thereon, belonging to any institution, town, township, city, or county and connected with, used or set apart for any of the purposes aforesaid.

Sixth. Every building used for religious worship, and the pews and furniture within the same, and also the parsonage belonging thereto and occupied as such, and the land whereon said building or buildings are situate, not exceeding ten acres, when owned by a church or religious society, or in trust for its use, also every cemetery.

It is the policy of the State to subject all private property to taxation, and statutes exempting property from taxation are strictly construed. *Indianapolis v. Grand Master*, 25 Ind. 518; *Trustees v. Ellis*, 38 Ind. 3.

The application of the rents of property to charitable uses will not entitle the rented property to be exempt from taxation. *Indianapolis v. Grand Master*, 25 Ind. 518.

Property devoted to the use of a private school is exempt from taxation. *Indianapolis v. Sturdevant*, 24 Ind. 391; *Common School v. McLean*, 8 Ind. 328.

Lands and personal property of the Miami Indians reserved by the treaties of 1838 and 1840 are not subject to taxation. *M-shing-go-mes-la v. State*, 36 Ind. 310.

Lands reserved by treaty to individual Indians are subject to taxation. *State ex rel. v. Board*, 63 Ind. 497.

When lands are purchased by the State under sales to enforce liens, such lands are not subject to taxation while the title is in the State. *Groom v. State ex rel.*, 24 Ind. 253.

The Legislature can not exempt any property from taxation except when it comes within one of the classes mentioned in the Constitution. *State ex rel. v. Indianapolis*, 63 Ind. 475.

Bonds and other evidences of indebtedness issued by the United States are not subject to State taxation. *Whitney v. Madison*, 23 Ind. 331; *Board v. Elston*, 32 Ind. 27; *Ogden v. Walker*, 59 Ind. 460.

Paid up non-forfeitable and partly paid up life insurance policies are not subject to taxation, as there is no statute providing any regulation for, or any manner of, assessing or valuing such policies. *State Board of Tax Commissioners v. Holliday*, 150 Ind. 218.

By Section 5 of the tax law the Legislature has made provision for all the exemption authorized by the Constitution, namely, of property used "for municipal, educational, literary, scientific, or charitable purposes." By thus expressly naming the particular property to be exempted, the General Assembly has, by necessary implication, forbidden the exemptions of any other property from taxation. *State Board of Tax Commissioners et al. v. Holliday et al.*, 150 Ind. 242.

The lands of a private owner leased and occupied for school purposes are not exempt from taxation.

The exemption from taxation of property used for school purposes, was to encourage those who should devote themselves and their property to educational purposes. * * * But this will not apply in favor of a property owner who simply rents or leases his property, to be used for one of the purposes mentioned in the Constitution. He holds such property for his own use and benefit—for his individual profit and not for the public good. *Travelers' Insurance Co. v. Kent et al.*, 151 Ind. 340.

SEC. 6. If all or any part, parcel or portion of any Exception. tract or lot of land, or any buildings or personal property enumerated in the preceding section as exempt from taxation, shall be used or occupied for any other purpose or purposes than those recited in said section, by reason whereof they are exempted from taxation, such property, part, parcel or portion shall be subject to taxation so long as the same shall not be set apart or used exclusively for some one of the purposes specified in said enumeration.

SEC. 7. In all cases where buildings or personal property shall be destroyed, in whole or in part, by unavoidable casualty, after being assessed for the year, and such loss is not covered by insurance, the County Auditor shall, upon sworn proof of such loss, allow a rebate of such proportion of the taxes for that year as that part of the year which shall remain, after such destruction, bears to the whole year. Property destroyed; rebate.

SEC. 8. Personal property shall be listed for taxation between the first day of April and the first day of June, each year and with reference to the quantity and quality held or owned on the first day of April, in the year for which the property is required to be listed. Personal listed, when.

If property is assessed for State and county purposes on the 1st day of April, and before June 1st the owner moves such property into a city it will be liable to a city assessment also. *Hilgenberg v. Wilson*, 55 Ind. 210.

SEC. 9. The person purchasing or acquiring property, whether real or personal, on the first day of April, in any year, shall be considered as the owner on that day and shall be assessed and liable for the taxes of that year. Owner on April 1st.

The holder of the legal title is the owner of property for the purpose of taxation. *Mullikin v. Reeves*, 71 Ind. 281.

SEC. 10. If a person die after the first day of April, in any year, without having given in the amount of his taxable property to his executor or administrator, heir at law, or other person to list. Executor or Administrator, when to list.

son having charge thereof, shall give in the same as though such property had been in his possession on the first day of April of such year.

[Acts 1897, p. 250. In force March 8, 1897.]

SEC. 11. All personal property shall be assessed to the owner in the township, town or city, of which he is an inhabitant on the first day of April of the year for which the assessment is made, with the following exceptions:

First. All goods and chattels situated in some township, town or city other than where the owner resides shall be assessed in the township, town or city where situated, and not elsewhere, if the owner or person having control thereof hires or occupies a store, mill, dock yard, piling ground, place for sale of property, shop, office, mine, farm, place of storage, manufactory or warehouse therein, for use in connection with such goods and chattels: *Provided*, That the procuring any such property to be manufactured upon contract shall be deemed the hiring of a mill or manufactory, within the meaning of this section.

Second. All animals kept throughout the year in some township, town or city, other than where the owner resides, shall be assessed to such owner, or to the person in possession in the township, town or city where kept.

Third. All shares in banks shall be assessed to their owners in the city or town where the bank is located.

Fourth. Personal property of non-residents of the State shall be assessed to the owner or to the person having control thereof in the township, town or city where the same may be, except that where such property is in transit to some place within the State it shall be assessed in such place.

Fifth. The personal property of minors under guardian shall be assessed to the guardian in the township, town or city where the guardian resides, but shall not be assessed or taxed for city or town purposes unless the ward resides in such city or town, and the personal property of every other person under guardianship shall be assessed to the guardian in the township, town or city where the ward resides.

Sixth. The personal property of the estates of deceased persons in the hands of executors, administrators or other persons shall be assessed to the persons in charge of such property in the township, town or city where the deceased last dwelt, until such property has been distributed to the heirs or other persons entitled thereto. If such decedent was a non-resident of the State, such property shall be assessed in the township, town or city where situated.

Personal
assessed,
where.

Seventh. Personal property under the control of a trustee or agent, whether a corporation or natural person, may be assessed to such trustee or agent except as otherwise by law provided in the township, town or city in which such trustee or agent resides.

Eighth. All personal property of any person situate upon, also all buildings situate and being upon the land of the United States, or of this State, or upon the lands of any county, township, town or city, shall be deemed personal property for purposes of taxation and assessment, and shall be assessed as personal property to the owner or occupant thereof in the township, town or city to which said lands belong or of which they form a part, and such buildings shall be subject to sale for taxes in the same manner as herein provided for personal property: *Provided, however*, It shall not be necessary to remove such buildings for the purpose of sale.

Ninth. Personal property of non-residents of the State in the possession or under the control of any person or corporation as trustee, receiver, executor, administrator or guardian shall be assessed for State and county purposes only and in the county where the court is situated by which said trustee, receiver, executor, administrator or guardian was appointed or to which such trustee, receiver, executor, administrator or guardian reports.

Tenth. Personal property in the possession of any person or corporation as trustee, receiver, executor, administrator or guardian shall be assessed for State and county purposes in the county where the court is situated by which said trustee, receiver, executor, administrator or guardian was appointed, or to which such trustee, receiver, executor, administrator or guardian reports.

Shares or stocks in an incorporated company are deemed situate at the domicile of the owner for the purpose of taxation, *Evansville v. Hall*, 14 Ind. 27; *Conwell v. President, etc.*, 15 Ind. 150; *Madison v. Whitney*, 21 Ind. 261.

Debts due to a resident of this State are taxable to him at the place of such residence. *Foreman v. Hyrns*, 68 Ind. 247.

Personal property in general is assessed where its owner resides, but the situs of such property, for the purpose of taxation, does not always or necessarily follow the domicile of the owner. *Eversole v. Cook*, 92 Ind. 222; *Buck et al., Trustees, v. Miller, Treasurer*, 147 Ind. 586.

The test as to where the right to tax property exists is its place of location and use, the place where, if a security or obligation, it is a credit, not where it is a debt. *Buck et al., Trustees, v. Miller, Treasurer*, 147 Ind. 586.

All residents of a township on the first day of April, or at any time between that and the first day of June, the time when the Assessor is required to complete his assessment, are taxable in such township for their money and credits, owned on the first day of April, except where such persons became residents of such township after the first day of

April and were assessed for such money and credits in the township from which they moved. *State v. Reynolds*, 108 Ind. 353.

Par. 1. Property that has substantial and corporeal form must have an actual location, and is taxable at such location. *Powell v. Madison*, 21 Ind. 335; *Toussy v. Bell*, 23 Ind. 423.

Where a person resides in a town in this State, and his personal property belongs elsewhere, such town has no authority to assess taxes upon such property, and the collection of the same will be enjoined. *Eversole v. Cook*, 92 Ind. 222.

Par. 4. The personal property of nonresidents situate in this State is taxable at the place of its location. *Standard Oil Co. v. Combs*, 96 Ind. 170; *Board v. Standard Oil Co.*, 103 Ind. 302.

Par. 9. The funds of an insolvent mutual benefit assessment society in the hands of a receiver in this State are subject to taxation in the county where they are kept on deposit by such receiver, although the funds had been collected in other States in which the society also did business, and turned over to the Indiana receiver by order of their respective courts, and were to be distributed to claimants, many of whom were nonresidents. *Schmidt, Treasurer et al. v. Falley, Recr., etc.*, 148 Ind. 150.

Par. 10. The funds of an insolvent mutual benefit assessment society in the hands of a receiver in this State are subject to taxation in the county where they are kept on deposit by such receiver, although the funds had been collected in other States in which the society also did business, and turned over to the Indiana receiver by order of their respective courts, and were to be distributed to claimants, many of whom were non-residents. *Schmidt, Treasurer et al. v. Falley, Recr., etc.*, 148 Ind. 150.

Taxes are not only a lien upon trust funds in court, but they are the first and paramount lien, to be paid before any other lien or claim whatsoever, except it be the costs of court. *Schmidt, Treasurer et al. v. Falley, Recr.*, 148 Ind. 150.

SEC. 12. All corporate property, including capital stock and franchises, except where some other provision is made by law, shall be assessed to the corporation as to a natural person in the name of the corporation. The place where its principal office in this State is situated shall be deemed its residence, but if there be no principal office in the State then such property shall be listed and taxed at any place in the State where the corporation transacts business.

When not otherwise provided by law, the capital stock of corporations is taxed to the individual owners thereof. *Whitney v. Madison*, 23 Ind. 331 (overruled in part, see 27 Ind. 338).

Shares of stock in a corporation are regarded as personal property for the purpose of taxation. *Seward v. Rising Sun*, 79 Ind. 351.

If the tangible property of a corporation represents the entire capital thereof, and such property is returned for taxation, the capital stock is not taxable, unless the value of the capital stock exceeds the value of such property, in which case the stock is taxable for such excess. *Hyland v. Brazil, etc., Co.*, 128 Ind. 335; *Hyland v. Central, etc., Co.*, 129 Ind. 68.

Section 12 applies to the assessment only of corporate property, and that "where some other provision is not made by law." It would, therefore, not relate to assessments against individuals. *Horn v. Woodard, Treas.*, 151 Ind. 126.

SEC. 13. For the purposes of assessing property and collecting taxes, a co-partnership shall be treated as an in-

Corporate property, where assessed.

Co-partnership.

dividual, and whenever the name of the owner or occupant of property is required to be entered upon the tax duplicate, if such property is owned or occupied by a co-partnership, the firm name may be used. A co-partnership shall be deemed to reside in the township, town or city where its business is principally carried on. Each partner shall be liable for the whole tax.

SEC. 14. Personal property *in transitu* shall be listed and assessed in the township, town or city where the owner resides: *Provided*, That if such property is intended for a particular business, it shall be listed and assessed at the place where the property of such business is required to be listed and assessed.

Personal property in transit.

Personal property of a nonresident in this State, and awaiting shipment outside of the State, is not subject to taxation. *Standard Oil Co. v. Bachelor*, 89 Ind. 1.

Property collected from different points and awaiting facilities for further transportation is deemed in transitu. *Board v. Standard Oil Co.*, 103 Ind. 302.

Where property of a nonresident is left in this State by direction of the owner for any purpose for an indefinite time before shipment, such property is not deemed in transitu and is liable to taxation where located. *Standard Oil Co. v. Combs*, 96 Ind. 170; *Board v. Standard Oil Co.*, 103 Ind. 302.

SEC. 15. All persons, companies and corporations in this State owning or controlling steamboats, sailing vessels, wharf-boats, barges and other water craft, shall be required to list the same for assessment and taxation in the county, township, town or city in which the same may belong, or be enrolled, licensed or registered, or kept when not enrolled, licensed or registered.

Water craft.

All water-craft are to be listed for taxation at the residence of the owner without regard to the situation of the property. *Cook v. Port Fulton*, 106 Ind. 170.

[See Act of 1901 in back part of book.]

SEC. 16. The personal property of banks or bankers, corporate or unincorporated, brokers, stock jobbers, insurance companies, hotels, livery stables, saloons, eating houses, ferries and mining companies, and all companies except companies specially provided for in this act, shall be listed and assessed in the township, town or city where such personal property is situated.

Bankers, brokers, stock jobbers, etc.

SEC. 17. The personal property of gas and coke companies, natural gas companies, electric light companies, water works companies, and hydraulic companies shall be

Gas, water and hydraulic companies.

listed and assessed in the township, town or city where the principal works are located; the mains, pipes and wires of such companies laid in or along roads, streets or alleys shall be listed as personal property in the township, city or town where the same are laid or placed.

[See Act of 1893, as amended by Section 4½, Act of 1901.]

Street railroad, road and bridge companies.

SEC. 18. The personal property of street railroad, plank road, gravel road, turnpike or bridge companies shall be listed and assessed in the township, city or town where the principal place of business is located. The track, road or bridge of such company shall be held to be personal property, and shall be listed and assessed in the township, town or city where the same is located or laid.

[See Act of 1901 defining the term "Railroads."]

Agents, list separate from own.

SEC. 19. Persons required to list property on behalf of others shall list it separately from their own, specifying in such case the name of the person, estate, company or corporation to whom it belongs.

Removing from one township to another.

SEC. 20. The personal property of persons removing from one county, township, town or city to another, between the first day of April and the first day of June in any year, shall be listed and assessed in either place in which the owner is first called upon by the Assessor. The owner of personal property moving into this State from another State, between the first day of April and the first day of June, in any year, shall be listed for his poll and the property owned by him on the first day of April of such year, in the county, township, town or city into which he has so removed: *Provided*, That if such person has been assessed, and shall make it appear to the Assessor by the certificate of the proper authority in the place of his former residence, that he is held for tax for the current year in such former place of residence, he shall not again be assessed for such year. In case of doubt as to the proper place to assess personal property, if the doubt arises as to different townships in the county, the Auditor shall determine the place; and if the doubt arises as to different counties, the Auditor of State shall determine, such determination shall be summary and final.

Doubt, how settled.

If a person is assessed outside of a city on April 1st, and moves into the city with the property assessed before June 1st, he will be liable to an assessment for city taxes. *Hilgenberg v. Wilson*, 55 Ind. 210.

SEC. 21. Real property shall be assessed in the place where situated, and to the owner, if known; if not, then to the occupant, if any; and if there be no occupant, then as unknown. Property in the control of an executor, administrator, guardian or trustee shall be assessed to such executor, administrator, guardian or trustee.

Realty, where and how assessed.

SEC. 22. When real estate is exempt from taxation in the hands of the holder of the fee and the same is contracted to be sold, the amount paid thereon by the purchaser, with the value of the improvements thereon until the fee is conveyed, shall be held to be personal property, and be listed and assessed as such in the place where the land is situated.

Sale of exempted realty.

SEC. 23. The stock of nurseries, growing or otherwise, in the lands of nurserymen shall be listed and assessed as merchandise.

Nursery stock.

SEC. 24. When the deed for real estate is held for the payment of a sum of money, such sum so secured shall be held to be personal property, and shall be listed and assessed as credits.

Deed held for security.

SEC. 25. Every franchise granted by any law of this State, owned or used by any person or corporation, and every franchise or privilege used or enjoyed by any person or corporation shall be listed and assessed as personal property.

Franchise.

SEC. 26. Where bonds or stocks are now or may hereafter be exempted from taxation, the accrued interest on such bonds or dividends on such stocks shall be listed and assessed, unless otherwise exempted, without regard to the time when the same is to be paid.

Interest on exempt security.

SEC. 27. When personal property is mortgaged or pledged, it shall, for the purpose of taxation, be deemed the property of the person who has the same in possession.

Personally mortgaged.

SEC. 28. In cases of mortgaged real estate the mortgagor shall, for the purpose of taxation, be deemed the owner until the mortgagee shall have taken possession of the mortgaged premises, after which the mortgagee shall be deemed the owner.

Realty mortgaged.

By Section 28 of the tax law it is expressly provided that in cases of mortgaged real estate, the mortgagor, for the purpose of taxation, shall be deemed to be the owner until the mortgagee shall have taken possession of the mortgaged premises. It is true that, when the lien for taxes once attaches to land, it will be subject thereto in the hands of whomsoever the title may thereafter pass. The liability for taxes on property, under the laws of this State terminate only with payment. *Miller v. Vollmer*, Treas., 153 Ind. 29.

Merchants,
consignees.

SEC. 29. Every person who shall own or have in possession, or subject to his control, any personal property within this State, with authority to sell the same, which shall have been purchased either in or out of this State, with a view of being sold at an advanced price or profit, or which shall have been consigned to him from any place out of this State for the purpose of being sold, at any place within this State, shall be held to be a merchant; and at any time when he shall be, in pursuance of this act required to make out and deliver to the Assessor a statement of his other personal property, he shall, in like manner, make a statement of and list as merchandise all property held or owned by him appertaining to his business as a merchant, and, in addition thereto, attest, on oath or affirmation, the true cash value of all such property appertaining to his business as a merchant, including, with amount on hand, in actual possession, all amounts purchased, with a view to possession or profit.

Merchandise purchased in this State with a view to be shipped to another State for sale is taxable in this State. *Reiman v. Shepard*, 27 Ind. 288.

Manufacturers.

SEC. 30. Every person who shall purchase, receive or hold personal property of any description for the purpose of adding to the value thereof, by any process of manufacture, refining, rectifying, or by the combination of different materials, with a view of making a gain or profit by so doing, shall be held to be a manufacturer, and he shall at all times, when, by virtue of this act he is required to, make and deliver to the Assessor a statement of the amount or value of his other personal property subject to taxation; also, in like manner, state the value estimated, as provided in the preceding section, of all articles purchased, received or otherwise held for the purpose of being used, in whole or in part, in any process or operation of manufacturing, combining, rectifying, or refining, including the value of all manufactured articles on hand in actual possession or elsewhere held for sale, and in addition thereto attest on oath the true cash value of all such property appertaining to his business as a manufacturer, including manufactured articles.

[Acts 1897, p. 90. In force March 1, 1897.]

Transient persons.

SEC. 31. Whenever at any time during any year, any transient person shall temporarily locate in any township, city, town or village for the purpose of selling or disposing

of goods, wares, and merchandise, and shall offer to sell or otherwise dispose at wholesale or retail of any goods, wares or merchandise, it shall be the duty of the proper Assessor for the time being, of the place where such person shall locate, forthwith to call upon such person and demand of him the true value in money of all his stock in trade, and in case such person shall neglect or refuse to return such value under oath within twenty-four hours after such demand, then it shall be the duty of such Assessor to determine the same as in other cases, and in either case he shall forthwith return such valuation to the Auditor of the county, who shall cause the same to be entered at once on the current tax duplicate in the hands of the Treasurer, and to compute taxes thereon at the rate of assessment for State, county, township, and municipal purposes at which current taxes on such duplicates are assessed, in the same manner as omitted property of the first day of April last preceding is entered upon the duplicates and assessed, but without penalties for delinquencies; and shall cause such taxes to be collected immediately: *Provided, however*, That in case such transient person show by proper Treasurer's receipts for taxes that all taxes for the current year have been paid on such stock of goods by him in any other county in Indiana; in such event no assessment shall be made against such stock of goods, wares or merchandise, for that year.

SEC. 32. Every person owning a manufacturing establishment of any kind, and every manufacturer, shall list as a part of his personal property, the value of all engines and machinery of every description used or designed to be used in any process of refining or manufacturing (except such fixtures as shall have been considered as a part of any tract, or real property), including all the tools and implements of every kind used for the purpose aforesaid.

Engines and machinery.

SEC. 33. Every person or company engaged in the business of receiving property in pledge or as security for money or other thing advanced to pawn or pledger, shall be held to be a pawnbroker, and shall, at the time required by this act, return under oath the value of all property pledged and held by him as a pawnbroker on hand on the first day of April annually, and taxes shall be charged upon the true cash value of such property to such pawnbroker, the same as other property.

Pawnbroker.

[As amended by an act of March 5, 1901.]

Inspecting
books, papers,
etc.

SEC. 34. If, in listing and assessing property for taxation, any Township Assessor or County Assessor may have good reason to believe that any person, firm or corporation within his jurisdiction has omitted to return for taxation any taxable property that should have been returned by such person, firm or corporation, then such Township Assessor or County Assessor, as the case may be, may file his affidavit in the Circuit Court of the county wherein such tax return should have been made, or with judge thereof in vacation, setting forth his belief that certain property, to be named in the affidavit, has been unlawfully omitted from a certain specified tax return of a designated person, firm or corporation, within his jurisdiction, and that some other person, firm or corporation, to be named in the affidavit, has in his or its possession certain specified books or papers containing evidence tending to show such unlawful omission of taxable property. Upon the filing of such an affidavit a writ shall forthwith issue and be served by the Sheriff of said county, requiring the person, firm or corporation having possession of such books or papers to permit the inspection, by the affiant, of such books or papers, or so much thereof as may be specifically named in such writ, and being only such books or papers, or so much thereof, as may contain evidence tending to show the unlawful omission of taxable property complained of in said affidavit. And the court or the judge in vacation issuing such writ shall, for the purpose of enforcing obedience thereto, possess and exercise all the powers usually possessed and exercised by it or him in contempt proceedings. Like writ may be issued and enforced upon like affidavits, made either by a County Auditor, by the Auditor of State, by any member of a County Board of Review, or by any member of the State Board of Tax Commissioners. All costs incurred on account of the filing of any affidavit, the issue of a writ thereon, and the service of such writ, shall be a charge against the county in which such proceedings are had and shall be allowed by the Board of Commissioners thereof: *Provided, however*, If, as a result of such proceedings, it is found that such designated person, firm or corporation have unlawfully failed to return property for taxation, then the county shall recover the costs from such person, firm or corporation. Every Township Assessor, County Assessor, County Auditor, Auditor of

State, Board of Review and Board of Tax Commissioners shall have power to administer all necessary oaths or affirmation in the discharge of their duties. It shall be the duty of all Assessors, and all other officers charged with the duty of listing property for taxation, or charged with the duty of collecting taxes, to give in writing all information they may acquire in reference to the concealment of property from taxation by any person, firm or corporation before mentioned, to the County Auditor, Auditor of State, or to the County Boards of Review or State Board of Tax Commissioners.

SEC. 2. No inspection of the books or papers of any person, firm or corporation by any tax officer shall be permitted or required except as specified in the foregoing section, and all laws or parts of laws in conflict herewith are hereby repealed.

[These decisions were given by the Court prior to the amendment of 1901.]

The officers of a building and loan association are proper parties in an action to compel the association to permit the County Assessor to examine its books for the purpose of ascertaining whether the stock of such association has been omitted from taxation. *State ex rel. v. Real Estate Building, etc., Assn., 151 Ind. 502.*

The tax laws of the State make it the duty of the County Assessor to assess all property that has been omitted from taxation, and a writ of mandate will lie to compel a building and loan association to permit the County Assessor to examine its books for the purpose of determining whether any of the stock of such association has been omitted from taxation. *State ex. rel. v. Real Estate, etc., Assn., 151 Ind. 532.*

1. County Assessors, in searching for omitted property to subject it to taxation, have all the powers conferred on Township Assessors, County Auditors and Treasurers, in addition to those expressly given to such County Assessors.

2. Under Section 8444, R. S. 1894 (Section 34, above), a County Assessor has the right to inspect the books of a building and loan association to determine whether any stock therein has been omitted from taxation.

3. He may enforce this right by mandamus proceedings against the association and its officers.

State ex rel. John D. Morgan, County Assessor, Monroe County, v. The Real Estate Building and Loan Fund Association, etc., 151 Ind. 532.

County Boards of Review have the right to inspect and examine the books and papers of banks and other corporations and taxpayers to determine whether any property has been omitted from assessment, and

for such purpose may require an officer of such corporation to appear before such board and produce such books and papers, and to answer proper questions in relation thereto, and on refusal of such officer to comply with such order, he may be required by the mandate of the Circuit Court to obey such order, and on his refusal to comply with such mandate, he may be punished for contempt. *Satterwhite v. State*, 142 Ind. 1.

Leasehold estate.

Sec. 35. When real estate which is exempt from taxation, is leased to another whose property is not exempt, and the leasing of which does not make the real estate taxable, the leasehold estate, and the appurtenances shall be listed as the property of the lessee thereof or his assignee, as real estate.

Public lands.

Sec. 36. Government lands, canal lands, university and school lands, purchased prior to the first day of April, shall be taxable for that year and annually thereafter. All school lands heretofore or hereafter sold shall be taxable from and after the sale and delivery of the certificate.

Prior to the act of December, 1872, purchasers of school lands were not liable for taxes thereon until after they obtained conveyances. *Willey v. Koons*, 49 Ind. 272; *Henderson v. State* ex rel. 53 Ind. 60.

Wabash & Erie Canal.

Sec. 37. All mills, manufactories, warehouses and other structures, with appurtenances and fixtures erected or placed upon any lands leased by the Board of Trustees of the Wabash and Erie Canal, shall be assessed to the lessees of such lands or their assigns, in possession of and occupying the same; but the lands or lots on which such mills, manufactories, warehouses or other structures are situate, shall be assessed to the owners thereof, and all locks, lands, dams, feeders, mill sites and water power and canal bed, with land appurtenant thereto, shall be assessed to the owners of said Wabash and Erie Canal, and for the purpose of valuation, the entire property in any township, shall be considered as an entirety, and shall be described in the assessment and in the tax duplicate as "The Wabash and Erie Canal." All the above described property shall be taxable from and after the sale of said property under the decree of the United States Circuit Court, in the case of *Thomas K. Gopen v. Thomas Dowling et al.* Nothing herein contained shall, in any way, prevent or interfere with the assessment of so much of said property as may lie in any city or town, by the city or town authorities for taxation for municipal purposes.

Undivided realty.

Sec. 38. The undivided real estate of any deceased person, not in control of an executor or administrator, may be listed to the heirs or devisees of such person, without designating any of the heirs or devisees by name, until they shall

have given notice to the Auditor of the county or counties in which such real estate is situated, of the division of the same and the names of the several heirs or devisees, and the proportions allotted to each, and each heir or devisee shall be liable for the whole of such tax, and shall have a right to recover of the other heirs or devisees their respective proportions thereof, when paid by him, and interest thereon, and the lien for the proportion of taxes paid on the different shares of the land shall vest in the person who pays the taxes.

When tenants in common have not had the proper transfers made, their lands may be assessed and taxed without designating their separate interests, and purchasers at tax sales may enforce liens jointly against the owners. *Jenkins v. Ilce*, 84 Ind. 342.

Sec. 39. Whenever a division or partition has been made, or other changes take place in the ownership of any tract or lot of land, or any part thereof, by conveyance, sale, devise, or descent, the County Auditor on being satisfied thereof, shall transfer the same on the last appraisal list, and apportion the same, and the valuation thereof, with all delinquent taxes, to the several owners.

There must be a transfer of the legal title to lands before there is a transfer for taxation. *Mullikin v. Reeves*, 71 Ind. 281.

Sec. 40. Lands occupied by any person, not the owner thereof, shall be listed in the name of the owner, if known, otherwise as the lands of unknown owners; and, for taxes, if paid by the occupant, he shall have his action against the owner, and a lien upon such lands until the same, with interest, is repaid to him.

Sec. 41. When the lines between two townships divide a tract of land surveyed differently from the congressional surveys, if listed to the owner thereof, he being a resident of either township in which a part of such tract of land may lie, or if listed to the occupant under the preceding section of this act, the same shall be listed in the township in which such owner or occupant resides; and in all other cases, the same shall be listed in the township in which the greater part thereof lies.

Sec. 42. Whenever the real estate to be listed and assessed can not be described by a congressional subdivision, or by the number of lot or plat, the same shall be sufficiently described for the purpose of listing, assessing, collecting the tax thereon, and conveying the title thereto, when the same is sold for non-payment of taxes, by reference to any sufficient and intelligible description of such land, or lot, in the deed, mortgage, will, or other public

record of the county, substantially in the following manner, the number of acres, book and page, and place being changed to suit each particular case:

"Fifty acres in survey, No. 158, of Clark's grant, as described in deed book 64, page 219, of the Recorder's office of Clark County," and when no sufficient and intelligible description of such real estate can be obtained for such reference by the Assessor or other officer listing such land, from the owner or public records of the county, such officer shall cause the County Surveyor to survey and plat such land and furnish him with such description; and a reference to such description in such survey, substantially in the following manner, shall be sufficient description of such land for the purposes above mentioned:

"Fifty acres in survey No. 100, of Clark's grant, as designated on the plat thereof made by the County Surveyor, on the day of, 18....."

The cost of such survey shall be entered by the Auditor on the tax duplicate, and collected as a part of the tax on said land. It shall be sufficient to describe the real property assessed in the manner heretofore in use by initials, letters, abbreviations and figures.

lots and subdivisions.

SEC. 43. Whenever any tract of land has been platted into lots or subdivisions the description of any such lot or subdivision by reference to its number on said plat, and the number or designation of the plat, shall be a good, valid and sufficient description thereof, for the purpose of listing, assessing, collecting the tax thereon, and conveying the title thereto, when sold for the non-payment of taxes.

description of personalty.

SEC. 44. In entering personal property upon the proper tax books for the purpose of taxation, it shall be a sufficient description of the same to use the words "personal property," and such phrase shall comprehend and embrace all species of personal property belonging to the party charged therewith, on the tax books, and no more specific description or designation thereof shall be necessary.

affidavit of axless person.

SEC. 45. Any person who, being called upon to list property, either on his own account or for others, subject to taxation, claims to have none, shall be required by the Assessor or other proper officer to make oath in writing to the truth of his claim in that behalf, and proper blank forms for such affidavit shall be provided, and such person shall be subject to the pains and penalties of perjury for a false oath.

'Person' defined.

SEC. 46. The word "person," as used in this act shall be held to include and mean "firm," "company," "association," or "corporation."

[For taxation of dogs, see Act of 1897 in back part of book.]

SEC. 47. The Assessor shall list every dog over the age of six months within his township to the person owning, keeping or harboring the same, and such person shall be charged on the duplicate one dollar if a male, and two dollars if a female dog, and the further sum of two dollars for each additional dog, beyond one; which amounts so charged shall be carried to the column of total amounts, and collected as other taxes are collected: *Provided*, That nothing in this act shall be so construed as to repeal or modify any of the provisions of an act to provide for the taxation of dogs, etc., in force March 7, 1883, and an act to amend section 8 of said act of March 7, 1883, approved April 8, 1885, both of which acts shall remain in full force and effect. (See act of March 6, Acts 1897, page 178; in back part of this book.)

SEC. 48. On the first day of April of each year, or as soon thereafter as practicable, and before the first day of June, the Assessor shall call upon each person required by this act to be assessed, and furnish him or her with the proper blanks for the purpose, and thereupon such person shall make to such Assessor a full and correct description of all the personal property, of which such person was the owner on the first day of April of the current year, and such person shall also, at the same time, make separate, full and true statements in like manner, in writing, distinctly setting forth in each a correct description of all the personal property held, possessed or controlled by him as executor, administrator, guardian, trustee, receiver, partner, agent, attorney, president or accounting officer of a corporation, consignee, pawnbroker, or in any representative or fiduciary capacity, and he shall fix what he deems the true cash value thereof to each item of property for the guidance of such Assessor, who shall determine and settle the value of each item, after examination of such statement, and also an examination under oath of the party or of any other person, if he deems it necessary. In determining and settling such valuation, he shall be governed by what is the true cash value, such being the market or usual selling price at the place where the property shall be at the time of its liability to assessment, and if there is no market value, then the actual value.

Values, how determined.

In making the valuation, annuities and royalties shall be valued at their present cash value. For the purpose of making such statements, the person to be assessed shall receive the proper blanks from the Assessor.

The list of personal property must be sworn to by the owner of the property. *State v. Reynolds*, 108 Ind. 353.

Valuation of annuities and royalties.

Assessment lists properly made out are admissible in evidence. *Fairter v. Hall*, 75 Ind. 208.

The schedule provided by the tax law controls in case of conflict with any other portion of that law. *Wasson v. First National Bank*, 107 Ind. 206, 212; *Orr v. Meek*, 111 Ind. 40, 41.

To constitute a valid assessment it must be made by the proper officer. There must, at least, be some attempt toward an assessment, and a compliance with the law by some officer authorized to make the assessment. *Evansville, etc., R. R. Co. v. Hays*, 118 Ind. 214, 220.

The Assessor and his deputies have authority, under the law, to administer all necessary oaths in connection with tax lists. *State v. Reynolds*, 108 Ind. 353.

While the person listing property is required to place a valuation upon it, such valuation will be regarded only as a mere statement of opinion by him, and the assessor must determine and settle the value of each item himself. *Flover v. Sherwood*, 128 Ind. 495, 500.

The taxable value of property is its fair cash value, a fair cash value being the market or selling price where the property shall be at the time of its liability to assessment, and if there be no market value, then it is the actual value that rules. *Willis v. Crowder*, 134 Ind. 515.

[1865, p. 21. In force February 23, 1865.]

Sec. 49. The person called upon or required by the Assessor to list property shall answer in writing under his signature, the following interrogatories under oath, upon the proper blank form thereof to be furnished by the Assessor who shall also administer the oath:

Interrogatory One. Are you or were you on the first day of April of the present year the executor of the last will or the administrator of the estate of any deceased person, or guardian of the estate of any infant or person of unsound mind or the trustee of the property of any person, or the receiver of any corporation, association or firm, or the agent or attorney, or banker, investing loaning or otherwise controlling the money or other property of any other person residing in this State, or the president or accounting officer of any corporation, or a partner consignee or pawnbroker? If yes designate for whom you were then or now are acting in such representative or fiduciary capacity, and if you were or are now acting under the authority of any particular court, name the court and also state [to] what court you report.

Interrogatory Two. Have you before the first day of April of the present year either personally or through the agency of others caused all or any part of your taxable money or other property to be temporarily converted, either by sale, borrowing exchange or in an other manner into bonds or other securities of the United States not taxable, or any other property not taxable, with the intention to pay back return or exchange or sell back such property after you have made out your tax statement, for the purpose of evading the payment of taxes on such property; or

Interrogatories to be answered.

did you on or after the first day of April, of the present year, and before you saw this interrogatory, pay back return or re-exchange or sell back such property for the purpose aforesaid?

Interrogatory Three. If you have converted any of your money or property, or money or property of any other person, as required [inquired] of you, then state when the same was so converted or invested and the kind and the amount or value thereof.

If persons purposely convert taxable property into non-taxable property to avoid taxation, a court of equity will not enjoin the collection of a tax assessed upon such non-taxable property. *Ogden v. Walker*, 50 Ind. 460. (See *Stillwell v. Corwin*, 53 Ind. 433.)

[As amended. In force March 6, 1869.]

Sec. 50. Every person required by this act to make or deliver such statement or schedule shall set forth an account of the property held or owned by him as follows:

Account of property required to be set forth.

PERSONAL PROPERTY—CREDITS.

First. All annuities and royalties.

Second. All bonds, notes, mortgages, accounts, demands, claims, and other indebtedness owing to such person whether such indebtedness is owing from individuals or from corporations, public or private, and whether such debtors reside within or without the State.

Third. All *bona fide* indebtedness owing to such person which shall be held to mean notes and accounts only.

PERSONAL PROPERTY—CHATTELS.

First. All shares in banks organized in this State under any law of this State, or of the United States, and their full market value, after deducting the value of the real estate as taxed to the banks.

Second. All shares in foreign corporations, other than banks, and their value.

Third. All shares in other corporations, organized under the laws of this State, when the property of such corporation is not exempt by some law, or is not taxable to the corporation itself, and the cash value of such shares.

Fourth. All moneys, including circulating notes of national banking associations and United States legal tender notes and other notes and certificates of the United States payable on demand and circulating or intended to circulate as currency, and gold, silver and other coin.

Fifth. The value of all gold and silver plate, watches, diamonds and jewelry.

Sixth. The value of all household furniture and musical instruments.

Seventh. All patent rights describing them and giving the number of each patent and the value of each.

Eighth. The number and kinds of domestic animals and their value.

Ninth. All wagons, carriages and sleighs and their value.

Tenth. All mechanical and agricultural implements and tools and their value.

Eleventh. All machinery not affixed to real property and its value.

Twelfth. All ships, boats and vessels whether at home or abroad and their value.

Thirteenth. All merchandise and stock in trade and its value.

Fourteenth. All logs, timber, lumber, posts, ties, cord wood, staves or other felled or cut timber and the value.

Fifteenth. All other goods, chattels and personal property not heretofore specially mentioned and their value, except property specifically exempt from taxation.

SEC. 51. In every case where any person shall neglect or refuse to make out and deliver a sworn statement of his property to the Assessor as required by this act, or if the Assessor shall be in doubt whether such statement is correct, such Assessor is hereby authorized and required to examine on oath any other person whom he believes to have knowledge of the amount or value of any property owned or held by such person so neglecting or refusing; and such Assessor is authorized to set down and assess to such person such amount of personal property as he may deem just.

SEC. 52. Whenever, from the answer to the second interrogatory on the schedule, and from the evidence before him, the Assessor is satisfied that the person required to list his property has, since the 1st day of April of the preceding year, temporarily converted any part of his property into property not taxable, for the purpose of preventing such property from being listed and of evading the payment of taxes thereon, such Assessor shall cause such property to be assessed at its true cash value.

If persons purposely convert taxable property into non-taxable property to avoid taxation, a court of equity will not enjoin the collection of a tax assessed upon such non-taxable property. *Ogden v. Walker*, 59 Ind. 460. (See *Stillwell v. Corwin*, 55 Ind. 435.)

Failure to
make state-
ment, or
making incor-
rect state-
ment,
of assessor's
duty.

Property con-
verted to
exempt tax-
ation to be
listed.

Section 52 of the tax law makes it the duty of the Assessor every year, when he lists the property of each taxpayer to cause any property to be assessed at its true cash value, which he is satisfied such person has since the first day of April of the preceding year converted into non-taxable property for the purpose of evading the payment of taxes thereon, and if such officer fails to discharge this duty for one year, or any number of years, the other taxing officers have the power, and it is their duty, to assess the same for such years as omitted property, under other sections of the tax law. *Crowder et al. v. Riggs, Auditor*, 153 Ind. 158.

By Section 52 of the tax law the Assessor is required to list for taxation property which has been temporarily converted into property which is not taxable, for the purpose of evading the payment of taxes thereon; but if such duty is not performed by that officer it is imposed upon the Auditor, County Assessor and other taxing officers by other sections of the tax law. *Crowder et al. v. Riggs, Auditor*, 153 Ind. 158.

It is true that Section 52 of the tax law provides that, if the Assessor is satisfied that any person required to list his property has since the 1st day of April of the preceding year converted his property into property not taxable, for the purpose of evading the payment of taxes thereon, such Assessor shall cause such property to be assessed at its true cash value. This is the duty of the Assessor every year. If he fails to discharge his duty, however, for one, or any number of years, the other taxing officers have the power, and it is their duty, to assess the same for such years as omitted property, under other sections of the tax law, the same as other omitted property. *Crowder v. Riggs, Aud.*, 153 Ind. 160.

[As amended 1890. In force March 6, 1890.]

SEC. 53. Before the first day of April of each year the County Auditor shall have in readiness for delivery to the Assessor the proper assessment books and necessary blanks for the assessment of all property, real and personal. The schedule, with affidavits thereto attached to be signed by the party, shall be in the following form, the names and places being changed to suit each person: The words, "value," "cash value," "true value," or "valuation," whenever used in this act, shall be held to mean the usual selling price at the place where the property to which such term or terms are applied shall be at the time of assessment, being the price which could be obtained therefor at private sale, and not at force or auction sale. The party shall write the word "none" after each item, whenever he has no property to assess as named on such item, and no item shall be passed without being answered.

When Auditor
to have books
ready for As-
sessor.

Form of prop-
erty list.

SCHEDULE

Cf all property held by....., of.....
Township,.....County, Indiana, on the first day of April,.....

PERSONAL PROPERTY, CREDITS.

DESCRIPTION OF PROPERTY.		Valuation by party.	Valuation by assessor.
1	All annuities	\$	\$
2	All bonds		
3	All notes secured by mortgage		
4	All other notes		
5	All accounts	\$	
6	All other amounts due me from any person, firm or corporation, except for moneys deposited with banks, corporations, firms or individuals	\$	
Total credits due me		\$	
From the sum of the above credits I claim a deduction of the amount of my bona fide indebtedness, as follows:			
Value of all notes owing by me			
NAME OF PAYEE.		Date of Maturity.	Amount.
			\$
Value of accounts owing by me		\$	
Total bona fide indebtedness which should be deducted from my credits			
Leaving balance for which I should be assessed		\$	\$
PERSONAL PROPERTY—CHATELS.			
Money on hand or on deposit with banks, trust companies, corporations, firms or individuals, or subject to my order, check or draft, including circulating notes of national banking associations and United States legal tender notes and other notes and certificates of the United States, payable on demand and circulating or intended to circulate, as currency, and gold, silver or other coin			

SCHEDULE—Continued.

Number.	DESCRIPTION OF PROPERTY.	Valuation by party.	Valuation by assessor.
2	All money loaned by me and not already entered on this schedule.....		
3	All interest owing me and not entered on this schedule...		
4	All judgments and allowances in my favor entered in any court, and which I have not already entered on this schedule; also all legacies, bequests and other estates in expectancy.....		
5	All moneys invested in certificates of purchase at tax sales.....		
6	All moneys invested in certificates of purchase at sheriffs' sales.....		
7	All moneys loaned to building, loan and savings associations.....		
8	All shares of stock in any corporation formed outside of this State; and also all shares of stock in any corporation formed in this State and conducting its business outside of this State.....		
9	Value of goods and merchandise on hand.....		
10	Value of all articles purchased, received or otherwise held for the purpose of being used, in whole or in part, in any process or operation of manufacturing, combining, rectifying or refining.....		
11	Value of manufactured articles on hand.....		
12	Value of manufacturing tools, implements and machinery (other than engines and boilers, which shall be listed as such).....		
13	Value of agricultural tools, implements and machinery...		
14	Value of gold and silver plate.....		
15	Value of diamonds and jewelry.....		
16	Value of household furniture and library.....		
17	Value of mechanical tools, law and medical books, surgical instruments and medicines.....		
18	Value of firearms.....		
19	Value of poultry.....		
20	Value of nursery stock.....		
21	Value of property such person is required to list as pawn-broker.....		
22	Value of property of corporations and corporations other than property hereinbefore enumerated.....		
23	Value of property of saloon and eating houses.....		
24	Value of market garden products.....		
25	Value of home made manufactured products.....		
26	Value of slaughterer's animals.....		
27	Every franchise and description and value.....		
28	Value of bricks, stone and all other building material on hand.....		
29	Number of steamboats, sailing vessels, wharf boats, canal boats, barges or other craft, either within or without this State and value.....	No.	
30	Number of patent rights and value.....		
31	Number of steam engines, including boilers, and value.....		
32	Number of an burg of an burg of an burg value.....		
33	Number of typewriting machines and value.....		
34	Number of adding machines, and value.....		

SCHEDULE—Continued.

No.	Description.	Description of Property.		
		Number.	Valuation by party.	Valuation by assessor.
35	Number of typesetting machines, and value			
36	Number of cash registers, and value			
37	Number of telegraph instruments, and value			
38	Number of telephones, and value			
39	Number of billiard, pigeonhole, bagatelle and other similar tables, and value			
40	Number of pianofortes, and value			
41	Number of organs and other musical instruments, and value			
42	Number of sewing machines and knitting machines, and value			
43	Number of watches and clocks, and value			
44	Number of carriages, wagons, coaches, hacks, carts, drays, or other vehicles, and value			
45	Number of bicycles, tricycles, velocipedes, motor-cycles, and value			
46	Number of hoop-poles, and value			
47	Number of staves and heading and heading blocks, and value			
48	All coopersage material and merchandise, and value			
49	Number of hogs, and value			
50	Number of mules, jacks and ponies, and value			
51	Number of cattle, and value			
52	Number of sheep, and value			
53	Number of hogs, and value			
54	Number of stands of bees, and value			
55	Bushels of corn of wood, and value			
56	Bushels of coal, and value			
57	Bushels of lime, and value			
58	Bushels of wheat, and value			
59	Bushels of corn, and value			
60	Bushels of rye, and value			
61	Bushels of oats, and value			
62	Bushels of potatoes, and value			
63	Bushels of barley, and value			
64	Bushels of grass and clover seed, and value			
65	Bushels of flaxseed, and value			
66	Bushels of fruit, and value			
67	Tons of hay, and value			
68	Tons of hemp, and value			
69	Pounds of beef, and value			
70	Pounds of bacon, and value			
71	Pounds of bulk pork, and value			
72	Pounds of lard, and value			
73	Pounds of wool, and value			
74	Pounds of tobacco, and value			
75	Pounds of hops, and value			
76	Pounds of maple sugar, and value			
77	Barrels of beef, and value			
78	Barrels of pork, and value			
79	Gallons of cider, and value			
80	Gallons of vinegar, and value			
81	Gallons of wine, and value			
82	Gallons of sorghum or maple molasses, and value			

SCHEDULE—Continued.

Number.	DESCRIPTION OF PROPERTY.	Number.	Valuation by party.	Valuation by assessor.
83	Feet of lumber, and value			
84	Pounds of starch, and value			
85	Pounds of feed, and value			
86	Reams of paper, and value			
87	Pounds of pulp, and value			
88	Gallons of oil of all kinds, and value			
89	Number of scales, and value			
90	Number of yards of cloth, and value			
91	Number of yards of flannel, and value			
92	Number of blankets, and value			
93	Pounds of yarn, and value			
94	Tons of ice, and value			
95	Number of threshing machines, and value			
96	Number of corn shellers, and value			
97	Value of logs and timber			
98	Value of all other property not specified above, required to be listed			
99	Male dogs owned or harbored by me			
100	Female dogs owned or harbored by me			

TO THE ASSESSOR.

The following is a list of all persons in my family, and belonging to my township, who are deaf and dumb, blind, idiotic, or insane, with their names, ages and sex, and also the names of the father, mother or guardian, and their postoffice address:

[illegible]

STATE OF INDIANA.....COUNTY, SS:

I,, being duly sworn, say, to the best of my knowledge, information and belief, the foregoing statement contains a true, full and complete list of all property held or belonging to me, and dogs owned, kept or harbored by me, on the 1st day of April including all personal property, appertaining to merchandising, whether held in actual possession or only having been purchased with a view to possession or profit, and all personal property appertaining to manufacturing, and all manufactured articles, whether on hand or owned by me in all cases where I have been unable to exhibit certain classes of property to the assessor, such property has been fully and fairly described, and its true condition and value represented. That I have in no case sought to mislead the assessor as to either quantity or quality or value of property and that the deductions claimed from credits are bona fide debts for a consideration received, and do not consist in any part in bonds, notes or obligations of any kind given to any insurance company on account of premiums or policies, nor on account of any unpaid subscriptions to any literary, scientific or charitable institution or society, nor on account of any subscription to, or indebtedness payable on capital stock of any company, whether incorporated or unincorporated; and I further swear that since the first day of April of last year, I have not directly or indirectly converted or exchanged any of my property temporarily for the purpose of evading the assessment thereof for taxes, into non-taxable property or securities of any kind. I further swear that I have to the best of my knowledge and judgment valued said property at its true cash value, by which I mean the usual selling price, being the price which could be obtained for said property at private sale, and not at forced or auction sale.

Subscribed and sworn to before me this.....day
of.....18....

By.....Assessor.
.....Deputy.

Taxpayers have a right to deduct from the demands due, and owing to, them the amount of their bona fide indebtedness. *Matter v. Campbell*, 71 Ind. 512; *Flover v. Sheridan*, 137 Ind. 28.

If a taxpayer is improperly refused permission to deduct his indebtedness from his credits, and pays taxes thereon under protest, he can recover such taxes. *Indianapolis v. Valjeu*, 111 Ind. 246.

"Money at interest" means money loaned. *Wasson v. First National Bank*, 107 Ind. 296.

The taxable value of property is its fair cash value, a fair cash value being the market or selling price where the property shall be at the time of its liability to assessment, and if there be no market value, then it is the actual value that rules. *Willis v. Crowder*, 134 Ind. 515.

A failure to use the dollar mark (or any other similar sign) in front of the amount of the valuation of property in the assessment sheet does not render the assessment void; and this is especially true if it can be gathered from the entire assessment that the dollar mark was intended to be used but was accidentally omitted. *Midland Ry. Co. v. State ex rel.*, 11 Ind. App. 433.

In the assessment and taxation of national bank stock, the owners thereof, if they have no other moneyed capital or credits from which to deduct their bona fide debts, are entitled to deduct them from the assessed value of such shares of stock, notwithstanding the provisions of the tax law of 1881. *Wasson v. First National Bank*, 107 Ind. 296; *City of Indianapolis v. Valjeu*, 111 Ind. 246.

The valuation entered in the column headed "valuation by party" on a tax schedule, is to be regarded as having been adopted by the assessor, except so far as a different valuation is entered in the column headed "valuation by assessor." *Indulis v. Board*, 4 Ind. App. 138.

The tax law of 1891 as amended in 1890, Section 33 Act 1890, p. 493i, provides that the individual taxpayer may deduct his bona fide indebtedness from his credits, but the owners of shares in a national banking association are not entitled under the section to deduct from the assessed value of the stock their bona fide indebtedness. *First National Bank of Richmond v. Turner*, Treas., 154 Ind. 456.

In the schedule provision is made for deducting bona fide indebtedness due by the property owner, from indebtedness due him. The Legislature deemed it wise to allow as deductions from credits, only such indebtedness as should be covered by notes and accounts; but it was never intended to define all indebtedness as including only notes and accounts. *State Board Tax Commissioners et al. v. Holliday et al.*, 150 Ind. 259.

Under the tax statute of 1891 as amended by the act of 1895 the certificate of purchase issued upon a sheriff's sale is subject to taxation during the period of redemption, though there was no redemption, and the holder of the certificate was compelled to pay the taxes against the real estate for the same period. *Miller v. Vollmer*, Treas., 153 Ind. 26.

Tax certificates are taxable under the law and should be reported by the tax payer under item 5 of the schedule of personal property. *State ex rel. Goodman, Prosecuting Attorney v. Halter*, 149 Ind. 302.

The owner of stock in a national bank is not entitled to a deduction of his bona fide indebtedness from the assessed valuation of his stock for the purpose of taxation. *First National bank of Richmond v. Turner*, Treas., 154 Ind. 456.

SEC. 54. It shall be the duty of the Assessor at the time of assessing property to ascertain and set down in tables prepared for that purpose, a list of all persons in their respective townships who are deaf and dumb, blind, idiotic or insane, setting forth the name, age and sex of

Mutes, Blind,
insane, list.

each, also the names of the father, mother or guardian, and their postoffice address, and in addition the Assessor of the township wherein the county poorhouse is located shall set down the number of the incurably insane who are kept therein, which list they shall return to the County Auditor at the same time they return the list of property. The said County Auditor shall report the same to the Chief of the Bureau of Statistics at the time of making their returns of the list of property; and said Chief shall lay before the Superintendents of the Institute for the Education of the Blind, the Insane, Feeble-Minded and of the Deaf and Dumb copies of the lists so made.

SEC. 55. If any person or corporation shall give a false or fraudulent list, schedule or statement required by this act, or shall wilfully fail or refuse to deliver to the Assessor, when called on for that purpose, a list of the taxable property which he is required to list under this act, or shall temporarily convert any part of his property into property not taxable for the fraudulent purpose of preventing such property from being listed and of evading the payment of taxes thereon, he or it shall be liable to a penalty of not less than fifty dollars nor more than five thousand dollars, to be recovered in any proper form of action in the name of the State of Indiana, on the relation of the Prosecuting Attorney. The Assessor shall forthwith notify the Prosecuting Attorney of such delinquency or offense, and he shall prosecute such offender to final judgment and execution, and such fine when collected shall be paid into the county treasury for the use of the county, and the Prosecuting Attorney shall receive ten per centum commission of all moneys so collected and paid in, and a docket fee of ten dollars, to be taxed and collected with costs in such actions. Absence from the township during the sixty days without design to avoid the listing, or sickness during such period shall be a sufficient defense to such prosecution.

This section is constitutional. *Burgh v. State ex rel.*, 108 Ind. 132. Persons who violate the provisions of this section must be proceeded against as herein provided, and not by indictment. *Durham v. State*, 116 Ind. 514; *Durham v. State ex rel.*, 117 Ind. 477.

As to necessary averments in a complaint under this section, see *Burgh v. State ex rel.*, 108 Ind. 132; *State ex rel. v. Lauer*, 116 Ind. 162; *Davis v. State ex rel.*, 119 Ind. 535; *Warner v. State ex rel.*, 3 Ind. App. 60; *Swift v. State ex rel.*, 3 Ind. App. 285.

The State has a separate action for each year a taxpayer gives a false or fraudulent list, schedule or statement, or fails or refuses to deliver to the assessor a list of taxable property which he is required to list. *The State ex rel. Goodman, Pros. Atty., v. Halter*, 149 Ind. 232.

False statement, penalty.

In an action to recover penalties for failure to list property for taxation for more than one year, the cause of action for each year should be stated in a separate paragraph of complaint. *The State ex rel. Goodman, Pros. Atty. v. Halter*, 149 Ind. 232.

In an action to recover the penalty provided by the above section, for failure to list property for taxation, the alleged fraudulent tax lists are not the foundation of the action and need not be filed with the complaint. *The State ex rel. Goodman, Pros. Atty., v. Halter*, 149 Ind. 232.

A statute providing for the recovery of a penalty from a property owner who refuses to furnish a list for taxation, or who furnishes a false list of his property, is not unconstitutional because it provides that the penalty recovered shall be paid into the county treasury for county purposes, instead of the common school fund. *State v. Indiana, etc.*, 11 R. Co., 133 Ind. 69.

A complaint which alleges that a taxpayer wilfully failed and refused to deliver to the Assessor a list of his taxables, is sufficient to show that such taxpayer had a list on which to make a return, or could have obtained the same, and is sufficient in that respect. *Gilliland v. State ex rel.*, 13 Ind. App. 651.

One who fraudulently omits from the tax list returned by him money on deposit belonging to him, is liable to the pecuniary penalty of not less than fifty dollars nor more than five thousand dollars prescribed by the above section, which is recoverable in an action in the name of the State, on the relation of the Prosecuting Attorney, and not by indictment. 108 Ind. 132; 116 Ind. 162; 116 Ind. 514; 117 Ind. 447.

The offenses defined in the above section, and those defined by Section 2271, R. S. 1894, in relation to false returns of property for taxation, are separate and distinct, the one subjecting the taxpayer to criminal prosecution and the other rendering him liable to a pecuniary penalty recoverable in a civil action. *Durham v. State ex rel.*, 117 Ind. 477.

A cause of action to recover the penalty imposed by Section 55, above, upon any person who gives a false and fraudulent list or statement of his taxable personal property, does not die with the taxpayer, but under Section 284, R. S. 1894, survives and may be maintained against his personal representative. *Davis v. State ex rel.*, 119 Ind. 555.

An action by the State for failure to list property for taxation is properly brought on the relation of the Prosecuting Attorney.

A complaint in an action by the State on the relation of the Prosecuting Attorney for recovery of the penalty provided by statute for failure to list property for taxation which discloses that the omitted property consisted of money, bonds, mortgages, notes, etc., subject to taxation, is sufficient without averring the value of the particular property.

A penalty of \$1,500 for failure to list property for taxation is not excessive where the evidence showed that the defendant omitted from his tax list over \$20,000 worth of property held by him, subject to taxation, and converted about \$1,500 for the purpose of avoiding taxation. *LaPlante v. State ex rel.*, 152 Ind. 81.

In an action against a taxpayer to recover penalties for failure to list property for taxation, each year's failure constitutes a separate cause of action, and should be stated in a separate paragraph of the complaint. *LaPlante v. State ex rel.*, 152 Ind. 80.

SEC. 56. In every case where any person shall refuse to make out and deliver to the proper Assessor the statement required under this act, or shall refuse to take and

Valuation by Assessor.

subscribe to any of the oaths or affirmations required by this act, the Assessor shall proceed to ascertain the number of each description of the several enumerated articles of property and the value thereof, and for this purpose he may examine on oath any person or persons whom he may suppose to have knowledge thereof, and such Assessor shall make a note of such refusal in a column opposite the person's name, and the County Auditor shall add to such valuation when returned by the Assessor fifty per centum on the value so returned.

Penalty for refusal to answer Assessor's interrogatories.

SEC. 57. If any person required by the Assessor to give evidence, as provided in the preceding section, or in any case when interrogated by the Assessor as to any property, real or personal, of himself or others, shall refuse to be sworn or affirm, or if having been sworn or affirmed, he shall refuse to answer the interrogatories hereinbefore set out, or any other questions touching the subject of inquiry such person upon conviction thereof shall be fined in any sum not more than five hundred dollars, nor less than ten dollars, to which may be added imprisonment in the county jail not exceeding six months.

Persons who improperly refuse to testify before the Assessor are liable under this section. *Burns v. State*, 5 Ind. App. 385.

Failure to make statement by reason of sickness or absence.

SEC. 58. When any person shall have been prevented from making and verifying his statement by reason of sickness or absence from the county during the sixty days, and the Assessor shall have made a statement for him, he may at any time before the assessment of taxes thereon by the County Auditor, make, verify and file with the County Auditor the proper statement; but in such cases before the Auditor shall receive such statement the person making the same must add to the ordinary affidavit a statement to the effect that his failure to give to the Assessor such statement was occasioned by his sickness or absence, and if from absence, that such absence was without design to avoid the listing of his property, and on the filing of such statement the Auditor shall correct the statement made by the Assessor.

[1895, p. 21. In force February 23, 1895.]

Special statement by bankers, brokers, etc.

SEC. 59. Every company, association or person not incorporated for banking purposes under any law of this State, or the United States, who shall keep an office or

other place of business, and engage in the business of lending money, receiving money on deposit, buying or selling bullion bills of exchange, notes, bonds, stocks, or other evidences of indebtedness, with a view to profit, shall, between the first day of April and the first day of June of each year, make out and furnish to the Assessor a statement setting forth and showing with reference to the first day of April of the current year:

First. The amount of money on hand and the amount of money in transit.

Second. The amount of funds in the hands of other banks, bankers, brokers or others, subject to draft.

Third. The amount of checks or other cash items not included in any of the preceding items.

Fourth. The amount of bills receivable discounted or purchased and other credits, due or to become due, including the accounts receivable, interest accrued but not due, and interest due and unpaid, and all notes secured by mortgage; also the value of such bills receivable, notes and credits.

Fifth. The amount of bonds and stocks of every kind and shares of capital stock of joint stock or other companies or corporations held as an investment or in any way representing assets, showing those which are exempt from taxation, if any, and also those subject to taxation and the amount of each; also, showing the value of such bonds, stocks and shares.

Sixth. All other property appertaining to said business, other than real estate (which real estate shall be listed and assessed, as other real estate is listed and assessed under this act).

Seventh. The amount of all deposits.

Eighth. The aggregate amount of the above first, second and third items shall be listed as moneys; the aggregate value of the taxable property embraced in the above fourth, fifth and sixth items shall be listed the same as other similar personal property is listed for taxation; and from the sum of such aggregate amount of said first, second and third items, and the aggregate value of said fourth, fifth and sixth items, there shall be deducted the amount of the above seventh item, and the amount remaining shall be listed for taxation.

The above section requiring certain statements to be made by persons engaged in lending money, receiving money on deposit, etc., for the purposes of taxation, does not apply to companies or associations incorporated for banking purposes, but such corporations are required to make out lists or statements as required by Section 8471, R. S. 1894. (Sec. 61, Tax Laws.) *Eaton v. Union, etc., Nat'l Bank*, 141 Ind. 138.

In giving its decision in the *First National Bank v. Turner, Treas.*, 154 Ind. 463, the Supreme Court says: The statute is essentially the same as the Ohio statute, of which it was said in *National Bank v. Chapman*, 173 U. S. 205: "Under the Ohio law the shares in national and also in State banks are what is termed stocks or investments in stocks, and are not credits from which debts can be deducted. As between the holders of shares in incorporated State banks and national banks on the one hand, and unincorporated banks or bankers on the other, we find no evidence of discrimination in favor of unincorporated State banks or bankers. In regard to this latter class, there is no capital stock so called, and section 2759 of the revised statutes therefore makes provision, in order to determine the amount to be assessed for taxation, for deducting the debts existing in the business itself from the amount of moneyed capital belonging to the bank or banker and employed in the business, and the remainder is entered on the tax book in the name of the bank or banker and taxes assessed thereon. This does not give the unincorporated bank or banker the right to deduct his general debts disconnected from the business of banking and not incurred therein from the remainder above mentioned. It can not be doubted that under this section those debts which are disconnected from the banking business can not be deducted from the aggregate amount of the capital employed therein. The debts that are incurred in the actual conduct of the business are deducted so that the real value of the capital that is employed may be determined and the taxes assessed thereon. This system is as nearly as may be equivalent in its results to that employed in the case of incorporated State banks and of national banks."

Section 59 of the tax law of 1891 as amended in 1895 (Act 1895, p. 229), provides for a detailed return of the assets and liabilities of the business and taxes the difference as the "moneyed capital" employed in the business." * * * This State has made clear provisions that all of the "other moneyed capital" that is openly employed in business competition with that of national banks shall be taxed the same as "moneyed capital" invested in national bank shares. *First Nat'l Bank v. Turner, Treas.*, 154 Ind. 464.

Shares of
capital stock,
rating of.

SEC. 60. The shares of capital stock in any bank located within this State, whether organized under the laws of this State or of the United States, shall be assessed to the owner thereof in the township, city or town, where such bank or banking association is located and shall be taxed at the same rate as other personal property in the same locality is taxed, and with reference to its value on the first day of April of the current year.

Shares of stock in incorporated companies are deemed located at the domicile of the owner for the purpose of taxation. *Evansville v. Hall*, 14 Ind. 27; *Conwell v. President*, 15 Ind. 159; *Madison v. Whitney*, 21 Ind. 261.

Shares of National Banks are taxable when shares of State banks are taxable. *Croph v. Tuttle*, 27 Ind. 332; *Wright v. Stitzer*, 37 Ind. 328; *Strader v. Manville*, 33 Ind. 111; *Whitney v. Ragsdale*, 33 Ind. 107.

The owner of stock in a national bank is not entitled to a deduction of his bona fide indebtedness from the assessed valuation of his stock for the purpose of taxation. *First National Bank of Richmond v. Turner, Treasurer*, 154 Ind. 466.

Section 60 of the tax law requires shares of capital stock of a national bank to be assessed to the stockholders, and provides that the value of any real estate acquired by the bank shall be deducted from the valuation of the capital stock. *Board of Commissioners Morgan County v. First National Bank*, Appellate Court decision, June 19, 1900.

SEC. 61. The president, cashier or other accounting officer of such bank, or banking association shall between the first day of April and the first day of June of each year make out a statement, under oath, in duplicate, showing the number of shares comprising the capital stock of such bank, the name and residence of each stockholder, with the number of shares owned by such stockholder in such bank, and shall affix what he deems the true cash value of each of said shares, and also, the true cash value of the entire capital stock of such bank, or banking association, on the first day of April, and shall deliver one of such statements to the Assessor in the township wherein such bank or banking association is located, and the other to the County Auditor and such capital stock shall thereupon be listed and assessed by the Assessor, and return thereof made in all respects the same as similar property belonging to other corporations and individuals. And whenever any such bank shall have acquired real estate or other tangible property the assessed value of such real estate or tangible property shall be deducted from the valuation of the capital stock of such bank. In making such statement of the true cash value of such shares, the credits shall be given and the bona fide indebtedness of such banks deducted therefrom, as in the case of individuals. The Assessor shall determine and settle the true cash value of each share of stock, after an examination of such statement, and also an examination, under oath of such officer if he deem it necessary; and in determining and fixing the true cash value of each of said shares of stock, he shall be governed by the market or usual selling price of such stock at private sale at the place where the bank is located; and, if there is no market value, he shall determine the actual value, taking into consideration the surplus and

Bank state-
ment, rules.

individual profits, if any, just as he would with respect to other moneyed capital in the hands of individual citizens of the State.

The Legislature has power to require the officers of national banks to make a list of the shares of stock of such banks for taxation. *Whitney v. Ragsdale*, 33 Ind. 107.

The assessment of bank stock in the name of the bank instead of the stockholders will not effect the lien for taxes, nor relieve the owner from the payment of the tax. *Small v. Lawrenceburgh*, 128 Ind. 231.

Real estate owned by a national bank, by the provisions of the statutes, State and national, as construed together, should be assessed for taxation as realty in the township where situated, and not as a part of the capital stock of the bank. *Loffen v. Citizens' Nat. Bank*, 85 Ind. 341.

Auditor to compel bank statement, when.

SEC. 62. In case of the failure or the refusal of the president, cashier, or other proper accounting officer of such bank to make and return such duplicate statements within the time aforesaid the Auditor of the proper county shall summon such officer to appear forthwith before him with the books of such bank or banking association; and said Auditor is hereby empowered to compel the attendance of said officers in obedience to such summons, and to examine them under oath and make such investigation at the expense of such bank or banking association as may enable him to obtain the information provided for in the preceding section.

If the Auditor fails to discharge his duty as required by this section, he may be compelled by mandate to do so. *State ex rel. v. Hamilton*, 5 Ind. 210.

Entry of valuation.

SEC. 63. The County Auditor shall enter the valuation of such capital stock on the tax duplicate of the current year and shall compute and extend taxes thereon the same as against the valuation of other property in the same township, town, or city.

Tax lien on shares.

SEC. 64. Taxes assessed upon shares of bank stock shall become a lien thereon upon the first day of April of the current year, and such lien shall be in nowise affected by any sale or transfer of such stock. Such taxes shall be paid by the owner or holder thereof, in the same manner that other individuals or corporations pay their taxes, and subject to the same penalties.

Bank to retain dividends, when.

SEC. 65. It shall be the duty of every such bank, or the managing officer or officers thereof after being notified in writing to do so by the County Treasurer to retain so much of any dividend or dividends belonging to such stockholders as shall be necessary to pay any tax levied upon their shares of stock respectively, until it shall be made to appear to such bank or its officers that such taxes have been paid and

any officer of any such bank who shall pay over or authorize the paying over of any such dividend or dividends or any portion thereof contrary to the provisions of this section shall thereby become liable for such tax, or the bank may pay the tax due from any of its shareholders and retain the amount thereof with interest from any subsequent dividend.

SEC. 66. Nothing in this act shall be so construed as to exempt from taxation for municipal purposes the shares of capital stock of any bank or banking association organized under the laws of this State or the United States, but all such shares of stock may be assessed and taxed for all purposes at the same rate that other property is assessed and taxed in the same locality.

Bank stocks are taxable for municipal purposes the same as other property. *De Pauw v. New Albany*, 22 Ind. 204.

SEC. 67. Every insurance company not organized under the laws of this State and doing business therein shall in the months of January and July of each year, report to the Auditor of State under oath, of the President and Secretary the gross amount of all receipts received in the State of Indiana on account of insurance premiums for the six months last preceding, ending on the last day of December and June of each year next preceding, and shall at the time of making such report pay into the treasury of the State the sum of three dollars on every one hundred dollars of such receipts, less losses actually paid within the State, and any such insurance company failing or refusing for more than thirty days, to render an accurate [account] of its premium receipts as above provided and pay the required tax thereon shall forfeit one hundred dollars for each additional day such report and payment shall be delayed, to be recovered in an action in the name of the State of Indiana on the relation of the Auditor of State in any court of competent jurisdiction, and it shall be the duty of the Auditor of State to revoke all authority of any such defaulting company to do business within this State.

Semi-annual statement of insurance companies.

[Sections 68, 69, 70 and 71 were repealed by act of March 6, 1893.]

SEC. 72. Every bridge company and ferry company not organized under the laws of this State, and doing business therein, shall between the first day of April and the first day of June of each year, report to the proper Assessor of the county in which any part of the business of such company is carried on, under the oath of the agent or superintendent of such company doing business in said county, the

Report of bridge and ferry company.

gross amount of all moneys received by such agent or superintendent on account of such company, and for the year then next preceding the first day of April of the current year, and failing or refusing to do so, such company shall forfeit and pay one hundred dollars for each additional day such report is delayed beyond the first of June, to be sued for and recovered as in the case of express, telegraph, and telephone companies: *Provided*, Such report shall also contain a list of the tangible property of such company or corporation within the county, and the true cash value thereof. The amount of such gross receipts shall be reported by such Assessor to the County Auditor and shall be by such Auditor entered, together with the true cash value of such tangible property, upon the tax duplicate of the proper county, and the taxes so assessed shall be a lien upon the property of such companies until the same are paid.

Report of street railroad, water works, gas, manufacturing, mining, gravel road, plank road, savings bank, insurance and other companies.

SEC. 73. Every street railroad, water works, gas, manufacturing, mining, gravel road, plank road, savings bank, insurance and other associations incorporated under the laws of this State (other than railroad companies and those heretofore specifically designated) shall, by its President or other proper accounting officer, between the first day of April and the first day of June of the current year, in addition to the other property required by this act to be listed, make out and deliver to the Assessor a sworn statement of the amount of its capital stock, setting forth particularly:

First. The name and location of the company or association.

Second. The amount of capital stock authorized, and the number of shares in which such capital stock is divided.

Third. The amount of capital stock paid up.

Fourth. The market value, or if no market value, then the actual value of the shares of stock.

Fifth. The total amount of indebtedness, except the indebtedness for current expenses, excluding from such expenses the amount paid for the purchase or improvement of property.

Sixth. The value of all tangible property.

Seventh. The difference in value between all tangible property and the capital stock.

Eighth. The name and value of each franchise or privilege owned or enjoyed by such corporation.

Such schedule shall be made in conformity to such instructions and forms as may be prescribed by the Auditor of State. In case of the failure or refusal to make report, such corporation shall forfeit and pay one hundred dollars

for each additional day such report is delayed beyond the first day of June to be sued and recovered in any proper form of action in the name of the State of Indiana, on the relation of the Prosecuting Attorney, such penalty, when collected, to be paid into the county treasury. And such Prosecuting Attorney in every case of conviction shall be allowed a docket fee of ten dollars to be taxed as costs in such action.

When a private corporation had, in good faith, made out and delivered to the proper Township Assessor a verified schedule of its property, as provided by Section 73 of the general tax law of 1891, the failure thereafter of the County Board of Review to make an assessment for taxes against the property, did not preclude the County Assessor from listing for taxation the property of such corporation. *Hunter Stone Co. v. Woodard, Treas., 152 Ind. 475.*

SEC. 74. Such statement shall be scheduled by the Assessor, and such schedule with the statement so scheduled, shall be returned by the Assessor to the County Auditor. The Auditor shall annually, on the meeting of the County Board of Review lay before said board the schedule and statements herein required to be returned to him and said board shall value and assess the capital stock and all franchises and privileges of such companies or associations in the manner provided in this act, and the said Auditor shall compute and extend the taxes for all purposes on the respective amounts so assessed, the same as may be levied on other property in such towns, cities or other localities in which such companies or associations are located. In all cases where the capital stock of any such corporation exceeds in value that of the tangible property listed for taxation, then such capital stock shall be subject to taxation upon such excess of value; where no tangible property is returned or found, and the capital stock has a value, it shall be assessed for its true cash value. But where the capital stock or any part thereof is invested in tangible property, returned for taxation, such capital stock shall not be assessed to the extent that it is so invested. Every franchise or privilege of any such corporation shall likewise be assessed at its true cash value. Where the full value of any franchise is represented by the capital stock listed for taxation then such franchise shall not itself be taxed; but in all cases where the franchise is of greater value than the capital stock, then the franchise shall be assessed at its full cash value, and the capital stock in such case shall not be assessed.

When the tangible property of a corporation exceeds in value the capital stock thereof, the latter is not taxable, but if the capital stock

exceeds in value the tangible property, the excess in value of such stock is taxable. *Hyland v. Brazil Co.*, 128 Ind. 335; *Hyland v. Central Co.*, 129 Ind. 68.

No special notice need be given of the time and place of meetings of Tax Boards to assess the property of corporations when the law fixes the time and place of meeting. *Hyland v. Brazil Co.*, 128 Ind. 335; *Hyland v. Central Co.*, 129 Ind. 68.

A County Board of Review is required to assess the capital stock of domestic corporations for taxation when such stock exceed the value of the tangible property of the corporation, and the determination of such value is a question for such board, and if it makes a mistake, the assessment is not thereby rendered void and subject to a collateral attack. *Jones v. Rushville Nat. Gas Co.*, 135 Ind. 595.

This section (§492, R. S. 1894) provides that "the Auditor shall annually, on the meeting of the County Board of Review, lay before said board the schedule and statement" required to be made and delivered to the Assessor by corporations, and that the "board shall value and assess the capital stock." Held, that this is sufficient notice to the corporation that its capital stock will be valued. The act of March 9, 1880, does not apply to such a case. *Kuntz v. Sumption*, 117 Ind. 1; *Distinguished, Smith v. Rude Bros.*, etc. Co., 131 Ind. 130, 133.

When a private corporation had, in good faith, made out and delivered to the proper Township Assessor a verified schedule of its property, as provided by Section 73 of the general tax law of 1891 (Acts 1891, p. 241), the failure thereafter of the County Board of Review to make an assessment for taxes against the property, does not preclude the County Assessor from listing for taxation the property of such corporation.

So careful is the State to guard against loss to its revenues from the remission of those officers that four different officers are each commanded to look after the State's continuing claim for taxes from property omitted from assessment in any year or number of years from any cause. Nothing will discharge the State's claim but actual payment, and the general law must be liberally construed in aid of the taxing power. *Hunter Stone Co. v. Woodard*, 152 Ind. 474.

Failure to
make state-
ments.
Auditor of
State to make.

SEC. 75. In case of the failure or refusal of the person or persons, joint stock associations, companies or corporations, their officers, agents or employees specified in the preceding section to make and return the statements and reports therein provided for the Auditor of State shall make out such returns, statements and valuations from the best information he can obtain, and for that purpose he shall have power to summon and examine under oath any person whom he may believe to have a knowledge thereof. And he shall add to such valuation twenty-five per centum thereon.

Taxable prop-
erty, railroad,
when listed.

SEC. 76. Every person, company, or corporation owning, managing, operating or constructing a railroad in this State shall cause all taxable property, not including property specifically taxed, to be listed, with reference to its amount, kind and value, on the first day of April of the

year in which it is listed. (See act of 1901 defining the term "railroad.")

When a railroad runs into or through two or more States, its value for taxation purposes in each is fairly estimated by taking that part of the value of the entire road which is measured by the proportion of the length of the particular part in that State to that of the whole road. *Pittsburgh, Cincinnati, Chicago & St. Louis Ry. v. Backus*, 154 U. S. Rep. 421.

The decision of the Supreme Court of the State, upholding the act of 1891, regarding the assessment of property, and especially that part relating to the assessment of railroad property, was sustained by the Supreme Court of the U. S. under date of May 26, 1894. *Pittsburgh, Cincinnati, Chicago & St. Louis Ry. v. Backus*, 154 U. S. 421.

SEC. 77. Between the first day of April and the first day of June, of the year eighteen ninety-one and at the same time in each year thereafter when required by the County Auditor, any person, company or corporation, so owning, managing, operating, or constructing a railroad shall make and file with the County Auditor of the respective counties in which the railroad may be located, a statement or schedule, verified by the oath of such person, or the president and secretary of such corporation, showing the property held for right of way, and the length of the main and all side and second tracks and turnouts, in such county, and in each city or town in the county through, or into which the road may run, and describing each tract of land, other than a city or town lot through which the road may run in accordance with the United States, or other surveys, giving the width and length of the strip of land held in each tract and the number of acres thereof. They shall also state the value of improvements and stations located on the right of way. New companies shall make such statement in April next, after the location of their roads. When such statement shall have been once made, it shall not be necessary to report the description as hereinbefore required, unless directed so to do by the County Auditor; but the company shall, during the month of April, annually, report the value of such property, by the description set forth in the next section of this act, and note all additions or changes in such right of way as shall have occurred.

Railroads,
right of way
property.

New com-
panies.

SEC. 78. Such right of way including the superstructures, main, side or second track and turnouts, turntable, telegraph poles, wires, instruments and other appliances, and the stations and improvements of the railroad company on such right of way (excepting machinery, stationary en-

Right of way,
how denomi-
nated and
described.

gines and other fixtures, which shall be considered personal property) shall be held to be real estate for the purpose of taxation, and denominated "railroad track," and shall be so listed and valued, and shall be described in the assessment thereof as a strip of land extending on each side of such railroad track and embracing the same, together with all the stations and improvements thereon, commencing at a point where such railroad track crosses a boundary line in entering the county, township, city or town, tending to the point where such track crosses the boundary line leaving such county, township, city or town, to the point of termination in the same, as the case may be, containing — acres, more or less (inserting name of county, township, city or town, or boundary line of same, and number of acres and length in feet), and when advertised or sold for taxes, no other description shall be necessary to convey a good title to the purchaser.

Under the laws of this State, the State Board of Equalization (State Board of Tax Commissioners) has exclusive authority to value and assess the railroad property denominated "railroad track" and "rolling stock." *Pfaff v. Terre Haute, etc., R. R. Co., 108 Ind. 144, 147.*

The right of way, with the improvements upon it, is to be valued and assessed as "railroad track." *Pfaff v. Terre Haute, etc., R. R. Co., 108 Ind. 144, 147.*

The phrase "right of way" is not limited to a strip of land of any definite width at all points on the line of a railroad, but includes lands and lots acquired for necessary side tracks and turnouts, and the improvements thereon in the way of coal sheds, freight houses, water tanks, repair shops, roundhouses and the like. *Pfaff v. Terre Haute, etc., R. R. Co., 108 Ind. 144, 147.*

Value of railroad track, how listed and taxed.

SEC. 79. The value of "railroad track" shall be listed and taxed in the several counties, townships, cities, or towns in the proportion that the length of the main track in such county, township, city or town bears to the whole length of the road in this State, except the value of the side or second track, and all the turnouts and all station houses, depots, machine shops or other buildings belonging to the road, which shall be taxed in the county, township, city or town in which the same are located.

Rolling stock, how listed and taxed.

SEC. 80. The movable property belonging to a railroad company shall be held to be personal property, and denominated for the purpose of taxation, "rolling stock." Such rolling stock shall be listed and taxed in the several counties, townships, cities and towns in the proportion that the main track used or operated in such county, township, city or town bears to the length of the main track used or

operated by such person, company or corporation, whether owned, operated or leased by him or them in whole or in part.

The Legislature may provide that rolling stock shall be regarded as real estate for the purpose of taxation. *Railroad Co. v. State ex rel., 25 Ind. 177.*

SEC. 81. All personal property of any railroad, except that specifically taxed and including the tools and material for repairs, machinery, fixtures and stationary engines, shall be listed and assessed in the county, township, city or town, wherever the same may be, on the first day of April of each year. Personal property of railroads, how assessed.

SEC. 82. All real estate of any railroad company other than that denominated "railroad track," with all the improvements thereon, shall be listed as lands and lots, as the case may be, in the county, township, town or city where the same are located. In describing such real estate wherever a railroad company shall have made or makes and records a plat of any contiguous lots or parcels of land belonging to it, the same may be described as designated on such plat. Real estate other than "railroad track," how assessed and described.

[As amended by Act of February 27, 1901.]

Section 83. Between the first day of April and the first day of June of each year, every person, company or corporation, owning, constructing or operating a railroad in this State, shall return to the County Auditor a list or schedule verified by the oath of such person so owning, constructing or operating if an individual, or, if a company or corporation, by the oath of the superintendent or secretary of such company or corporation, which shall state the mileage of railroad track, giving the length of the main and side or second tracks and turnouts, and showing the proportion of such mileage located in each municipal subdivision of said county, together with the total in the county. Said list or schedule shall also contain a full and correct inventory of all the other personal property of such railroad company in said county not specifically taxed, including the tools and machinery for repairs, the machinery, fixtures and stationary engines, and such property shall be classified and separated into the particular county, township, cities and towns wherein the same may be on List by railroad company or to County Auditor, what shall contain.

the first day of April, with the true cash value thereof, on the first day of April of the current year. Such list shall also contain an inventory of all the real estate other than that denominated railroad track, owned by said railroad company, on the first day of April of the current year. Such property shall also be listed with reference to the amount, kind and value on the first day of April of the year in which it is listed. (As amended by Act of February 27, 1901.)

Auditor's return to Assessor.

Section 84. The County Auditor, as soon as he receives such list, shall return to the proper assessor a copy of so much of said list as relates to assessable property therein contained, and such property shall be listed and assessed by such assessor. Such property shall be treated in all respects, in regard to assessment and equalization, the same as other similar property belonging to individuals, except that it shall be treated as property belonging to railroads, under the terms "lands," "lots" and "personal property."

Where a railroad company returns a schedule and valuation of its personal property to the County Auditor, and such Auditor submits the same to the Assessor to be assessed, the railroad company is not entitled to notice before the Assessor can make the assessment at a greater valuation than that returned by the company. *Chicago, etc., R. R. Co. v. John, Treasurer, etc., 150 Ind. 113.*

Where the personal property of a railroad company has been assessed by the Township Assessor, the Board of Equalization has no power to increase the assessment so made, and an action may be maintained to recover taxes paid under such wrongful assessment. *Cleveland, etc., R. R. Co. v. Board, etc., 19 Ind. App. 38.*

Statement by railroad companies to Auditor of State, contents.

Sec. 85. At the same time that the lists or schedules as hereinbefore required to be returned to the County Auditor the person, company or corporation running, operating or constructing any railroad in this State shall under the oath of such person, or the Secretary or Superintendent of such company or corporation, return to the Auditor of State sworn statements or schedules, as follows:

First. Of the property denominated "railroad track," giving the length of the main and side or second tracks and turnouts, and showing the proportions in each county and township, and the total in the State.

Second. The rolling stock, whether owned or hired, giving the length of the main track in each county, and the entire length of the road in this State.

Third. Showing the number of ties in track per mile, the weight of iron or steel per yard used in the main and side tracks, what joints or chairs are used in track, the ballasting of road, whether graveled, stone or dirt, the number and quality of buildings or other structures on "railroad tracks," the length of time iron or steel in track has been used, and the length of time the road has been built.

Fourth. A statement or schedule showing:

1st. The amount of capital stock authorized and the number of shares into which such capital stock is divided.

2nd. The amount of capital stock paid up.

3rd. The market value, or if no market value, then the actual value of the shares of stock.

4th. The total amounts of all indebtedness except for current expenses for operating the road.

5th. The total listed valuation of all its tangible property in this State. Such schedule shall be made in conformity to such instructions and forms as may be prescribed by the Auditor of State.

Sec. 86. If any person, company or corporation own- Failure to ing, operating, or constructing any railroad, shall neglect or refuse to return to the County Auditor the statements or schedules required to be returned to them, the property so to be returned to them and assessed by the Assessors as above specified shall be listed and assessed as other property. In case of failure to make returns to the Auditor of State, as hereinbefore provided, the Auditor of State, with the assistance of the County Auditors and Assessors when he shall require such assistance, shall ascertain the necessary facts and lay the same before the State Board of Tax Commissioners. In case of failure to make such statement, Penalty. either to the County Auditor or Auditor of State, such corporation, company or person shall forfeit, as a penalty, not less than one thousand dollars nor more than five thousand dollars for each day's omission after the first day of June of each year, to be recovered in any proper form of action in the name of the State of Indiana on the relation of the Attorney-General, and paid into the State Treasury. Such Attorney-General shall conduct such prosecution and be entitled to ten per centum on the amount of judgment so recovered and paid in.

Auditor of
State to lay
statements
before Board
of Tax Com-
missioners.

Sec. 87. The Auditor of State shall annually on the meeting of the State Board of Tax Commissioners lay before said Board the statements and schedules herein required to be returned to him, and said Board shall assess such property in the manner hereinafter provided.

The provisions of the act of March 6, 1861, being Sections 8494 to 8506, R. S. 1894, providing for the assessment of railroads for taxation, and the provisions of such statute defining the powers and duties of the State Board of Tax Commissioners in connection with such assessment is a valid and constitutional enactment. *Cleveland, etc., Ry. Co. v. Backus*, 133 Ind. 513; *Pittsburg, etc., Ry. Co. v. Backus*, 133 Ind. 625; *Pittsburg, etc., Ry. Co. v. Backus*, 134 U. S. 421.

County
Auditor to
enter railroad
assessment on
tax duplicate.

Sec. 88. The County Auditor shall enter the railroad property of all kinds as listed for taxation upon the proper tax duplicate, and shall enter the valuation as assessed, corrected and equalized in the manner provided in this act and against such assessed, corrected or equalized valuation as the case may require, the County Auditor shall compute and extend all taxes for which said property is liable. And the County Treasurer shall collect the taxes charged against said railroad property, and pay over and account therefor in the same manner as other taxes are collected and accounted for.

Statements by
building, loan
and savings
associations.

Sec. 89. Building, Loan-Fund and Saving Associations shall be listed and assessed in the following manner: Before the first day of June of each year, the secretary of every building, loan and savings association shall file with the Auditor of the county in which such association was organized, a duplicate statement verified by said secretary, showing the amount paid into said association by shareholders upon shares of stock issued by it up to the first day of April preceding and then outstanding, and also the amount loaned up to said date, to shareholders, and secured by mortgage upon real estate listed for taxation. And the Auditor shall deliver said statement to the proper Assessor, who shall proceed to assess said association for taxation with the amount shown to have been paid into said association up to said first day of April upon outstanding shares of stock, less the amount shown by the statement to have been loaned to shareholders upon said mortgage security so listed for taxation, and neither said association nor the shareholders therein shall be liable to other taxation upon said shares of stock.

Construing Section 8507, Burns' R. S. 1894, relative to the taxation of building and loan associations with Section 1, Article 10 of the Consti-

tution, and indulging the presumption that the Legislature did not intend to violate the Constitution, the conclusion follows that it was intended by such section to tax, not the stock of the corporation, but the holdings of its members, and such balance as may remain in the hands of the association officers. *Horn v. Woodard, Treas.*, 151 Ind. 136, 137.

It is settled law in this State that the stock in building and loan associations, whether paid up, prepaid, running or otherwise, is taxable at its true cash value. *State ex. rel. Morgan, Assessor, v. Real Estate, etc., Assn. et al.*, 151 Ind. 503.

Section 8507, Burns' R. S. 1894 (see tax law 1891, providing the manner of assessing building and loan associations for taxation, and exempting from taxation shares of stock in such associations, was not intended as a limit upon the right further to tax the holders of stock or those to whom the building associations were indebted. *Horn v. Woodard, Treas.*, 151 Ind. 132-135.

One who has deposited his money with a building and loan association, subject to call at any time upon reasonable notice, with interest or earnings is a creditor to the extent of such deposit and interest or earnings and his holdings constitute a credit. *Horn v. Woodard, Treas.*, 151 Ind. 135, 136.

Whether the stockholder who has loaned his money to the association, and has received certificates of stock in evidence of such loan has in fact paid in full for the stock, or has made any part payment thereon, he should in either case, be taxed for the true cash value of his stock, and that value will, in general, be the amount paid on the stock. * * * But the stockholder who is simply a lender to, a creditor of, the association * * * holds his stock in evidence of such credit, just as he might hold the promissory note or other obligation of the association. Whether, in fact, he holds a certificate of stock or not, or whatever other evidence there may be of such credit, can make no difference. He is an actual creditor. * * * Such a credit, therefore, by whatever name it may be called, or however it may be evidenced, is taxable under the Constitution as any other credit. *Deniston v. Terry*, 141 Ind. 677.

Stock in building and loan associations, whether paid up, prepaid, running or otherwise is taxable at its true cash value. Any law, either directly or indirectly, exempting stock in building and loan associations from taxation is unconstitutional.

For the purpose of listing the property of building and loan associations and other corporations for taxation a County Assessor has the right to inspect the books and papers thereof and may enforce that right by mandate. *State ex. rel. Morgan v. The Workmen's, etc., Assn.*, 152 Ind. 278.

Sec. 90. For the purpose of listing and assessing all property for taxation there shall be elected at the township election in the year one thousand eight hundred and ninety-four, and every four years thereafter, in each township of the several counties in this State, an Assessor for such township, who shall hold his office for the term of four years from the first Monday of August following and until his successor is elected and qualified. Within ten days after the beginning of his term he shall give bond, with at least two good and sufficient freehold sureties, to the ac-

Election of
Township
Assessor.

Term of.

Bond of.

ceptance of the County Auditor, in the sum of three thousand dollars, payable to the State of Indiana and conditioned for the faithful and impartial discharge of his duties according to law and shall take and subscribe an oath or affirmation, to be endorsed on his bond, that he will faithfully, honestly and impartially discharge the duties of his office to the best of his skill and ability; and the bond so endorsed shall be deposited with the County Auditor, and the said Auditor is hereby authorized to administer the oath of office aforesaid. If such bond and oath are not given and filed in the County Auditor's office within said ten days, the office shall be vacant and the County Auditor shall at once fill such vacancy by appointment, and such appointee shall give the bond and take the oath as above required. And if from any other cause a vacancy should occur in said office in any township at any time, the County Auditor shall fill such vacancy by appointment, and the person so appointed shall qualify as herein required. All Township Assessors last elected or appointed shall continue in office until the next township election, and until their successors are elected and qualified under this act, at the same rate and limit of compensation as herein provided. Persons holding the office of Township Assessor on the taking effect of this act shall not be eligible to said office at said township election in 1894; and hereafter no person shall be eligible to the office of Township Assessor more than four years in any period of eight years. The oath of office to be taken by said Assessor and endorsed upon his bond shall be in the words following:

Oath of.

State of Indiana, County of _____, ss.

I, _____, do solemnly swear that I will support the Constitution of the United States, and the Constitution of the State of Indiana, that I will faithfully, impartially, and honestly discharge the duties of my office as Township Assessor, particularly that I will assess all property assessed by me at its true cash value, as such value is defined in section 53 of the act concerning taxation, according to my best knowledge and judgment, so help me God.

Subscribed and sworn to before me this _____ day of _____, 189—.

_____, County Auditor.

All Deputy Assessors shall be sworn in like manner.

[Act 1897, p. 64.]

The time of holding the election of Township Trustees and Assessors shall be changed from the general election on the first Tuesday after the first Monday in November, 1898, to the general election on the first Tuesday after the first Monday in November, 1900, and at the general election on the first Tuesday after the first Monday in November of every fourth year thereafter. Said Township Trustees and Assessors shall qualify as now provided by law, and enter upon the discharge of the duties of their respective offices at the expiration of ten days after such election.

SEC. 91. Whenever a Township Assessor shall be unable to complete the duties required of him within the time designated by law, he may appoint one or more suitable and competent persons as deputies to assist him in making the assessment and he may designate the portion of the township, town or city in which they shall act. Such deputies shall make their return to the proper Assessor.

[1893, p. 296. In force March 4, 1893.]

SEC. 92. For their services the Township Assessors shall receive as compensation two dollars per day for the time actually employed in the duties of their office, not exceeding sixty days in any one year, to be paid to them from the County Treasury upon the warrant of the County Auditor, and they shall receive no extra allowance for their services. Their deputies shall also receive two dollars per day for each day they are actually employed, to be paid them in like manner: *Provided, however,* That in townships having a population of more than one hundred thousand, as shown by the last preceding United States census, the deputies that are necessarily engaged in the performance of the office work of such office shall receive a compensation for such work of three dollars per day for each day they are actually employed, to be paid as provided in this section: *Provided, further,* That nothing in this section shall be taken to alter or repeal any of the provisions of an

act fixing the salaries of County Commissioners, Township Assessors and Trustees, approved March 6, 1889.

List of lands on duplicate to be given Assessors.

SEC. 93. The County Auditor of each county shall, on or before the first day of April in each year in which realty is assessed, make out and deliver to the Assessors, by civil townships, lists of all lands, town and city lots entered on the duplicate of the preceding and present year, noting thereon all transfers which may have been made subsequent to the making out of such duplicate, and shall also enter thereon all new entries and other lands and city, town and village lots lying within his county which may come to his knowledge and not previously entered for taxation, and in so doing when a whole section, half section, quarter section or half-quarter section appears to belong to one owner, it shall be described in one description and shall be listed as one tract and when all the lots in one block appear to belong to one owner they shall be described in one description and listed as one block; when several lots in the same block shall belong to the same owner, they shall as far as practicable be included in one description, and in making up the tax duplicates it shall be the duty of the County Auditors, as far as practicable, to preserve and perpetuate such consolidated description, and it shall be the duty of said Auditor to furnish the Assessor with all blanks necessary in the discharge of his official duties, and he shall also, where the same have not been already prepared, prepare plats of each civil township of his county divided into sections and quarter sections, and grant and other governmental subdivisions, and deliver the same to him with said blanks, and it shall be the duty of said Assessor to designate in pencil the lands of each owner on such plats. When such plats have been once prepared, they shall be carefully preserved by the County Auditor, to be used whenever practicable in future assessments.

Plats.

Owners to give list of lands.

SEC. 94. The Assessor shall call upon each and every person residing in his township for a list of all lands, city, village and town in-lots and out-lots, owned by such person or persons, lying within his township, which may be subject to taxation, which list shall particularly set forth the names of the owners, the number of acres of land in each tract, lot, section or subdivision thereof, the range, township, section, quarter section, tract or lot, or part thereof, or the number of the entry, location or survey, as the nature of the general or particular survey may require. And if the same cannot be described by the Congressional survey, then it shall be described by metes and bounds, so as to designate and identify the same or by reference to a sufficient and

correct description contained in some public record of the county, or by the number and designation as contained in some partition proceeding, identifying by book and page of record whenever practicable. When he makes such call he must notify the person, company or corporation, of their duty to make out and return such list within five days. If he deems it necessary to obtain an accurate description of any separate lot or tract in his township, he may require the owner or occupant to exhibit all the title papers he may have in his possession, and whenever the person called upon fails or refuses to furnish such list to such Assessor at his office or place of business within five days after being called upon, the Assessor shall make the list according to the best information he can obtain and for that purpose, he may examine under oath any person or persons whom he may suppose to have a knowledge thereof, and the County Auditor shall add to such valuation, when returned, twenty-five per centum on the value so returned. To enable the County Auditor to make such addition, the Assessor shall enter in his return, in a column provided for that purpose, opposite the name of every person, company or corporation, required to list real estate, who has, after notice, failed or refused to furnish the list required, these words, "Failed or refused after notice."

SEC. 95. Real property shall be valued by the Assessor as follows: Lands and the improvements and buildings thereon, or affixed thereto shall be valued at their full, true cash value, estimated at the price they would bring at a fair, voluntary private sale, not a forced or Sheriff's sale, taking into consideration the fertility of the soil, the vicinity of the same to railroads, macadamized roads, clay roads, gravel roads and turnpike roads, State or county roads, cities, towns, villages, navigable rivers, water privileges on the same, or in the vicinity of the same, the location of the route of any canal or canals, with any other local advantages of situation. In-lots and out-lots in all towns, cities or villages, with the improvements thereon or affixed thereto, shall be valued at their full cash value, as aforesaid, taking into consideration all the local advantages upon actual view of the premises. All lands and lots shall also be listed at such valuation, without taking into consideration any improvements, and this valuation, as well as the valuation with the improvements shall be set down in a proper column to be left for that purpose.

SEC. 96. When a building or structure is located on the right of way of any canal, railroad or other company, leased or granted for a term of years to any other, the same

Building on right of way, how valued.

shall be valued at such price as such building or structure and lease or grant would sell at a private, voluntary sale for cash.

Mines and
quarries, how
valued.

SEC. 97. In valuing any real property on which there is a coal or other mine, or stone or other quarry, the same, if the land and the mine or quarry are owned by the same person, shall be valued at such price as such property, including the mine or quarry, would sell at a private, voluntary sale for cash. Where the mine or the quarry is owned or leased by a person other than the owner of the land, such land shall be valued, exclusive of the mine or quarry, as other lands are valued, and the mine or quarry and all improvements and leasehold and appurtenances shall be valued separately from the land, according to the true cash value thereof.

Assessor to
examine
buildings.

SEC. 98. For the purpose of enabling the Assessor to determine the value of buildings and other improvements, he is hereby required to enter, after first making known his intention to the owner or occupant thereof, and fully examine all buildings and structures of whatever kind, which are not by the laws of the State especially exempt from taxation.

Land, rule as
to quantity.

SEC. 99. The Assessor, in ascertaining or determining the quantity of land in the several tracts within his township, shall be governed by the following rules: Whenever the owner or person in whose name it is listed shall hold, by virtue of a deed from another party, or from the State of Indiana, or by patent from the United States for Congress land, such deed or patent, if the quantity be therein stated, shall be taken and received as evidence of the quantity in the tract described; but if such lands shall have been surveyed subsequent to the survey made by the United States, and it shall be proven to the satisfaction of the Assessor that any such tracts of land contain a greater or less quantity than is described in the patent or deed under which said lands are held, then the Assessor shall charge the owner with the true quantity as ascertained by such subsequent survey; if the owner or person in whose name any lands are listed within the French or Clark's grant, shall hold, under an original entry or survey, with or without patents thereon, it shall be the duty of the Assessor to require the said owners or holders to cause the same to be surveyed by the County Surveyor and to return the quantity under the certificate of said Surveyor, attested by oath or affirmation, within ten days after said owners or holders shall have been called upon to list their lands for taxation, and if any such owner or holder shall refuse or neglect to

survey and list his lands as herein provided, or if he, she or they be non-residents of the township, then it shall be the duty of the Assessor to cause such lands to be surveyed and returned to himself, the expense of which survey shall be paid from the county treasury, and be by the Auditor of the county assessed against such lands in the succeeding year, and collected in the same manner as taxes are collected thereon: *Provided*, That if any owner or holder of lands has had the same previously surveyed and shall produce to the Assessor a certificate of the survey, other than that under the original entry of said lands, such survey shall be taken by the Assessor, or if the Assessor shall be satisfied from other competent evidence adduced to him under oath or affirmation that the quantity returned is correct, and that no surplus exists in the original survey, he shall enter and return the same without further survey: *Provided*, That the Assessor may deduct from the value of such tract of land, owned by any person, the value of the amount of land occupied and used by any railroad, public highway or canal, at the time of such assessment.

SEC. 100. In making out this list the Assessor shall place opposite to each tract of land or lot listed the value without improvements, and also in another column opposite the value of the improvements erected thereon or affixed thereto.

Value, how
affixed.

SEC. 101. Each Assessor shall, in a book to be furnished by the County Auditor, on or before the first Monday in June in each year, make out and deliver to such Auditor, a return of the real estate listed for taxation in his township, which return shall contain:

Assessor's
return book,
contents.

First. The names, arranged in alphabetical order, of the persons in whose names the real estate of the township (except such as lies within the limits of any city, town or village) has been listed, and in appropriate columns opposite each name the description of each parcel of real estate listed in such name, and the value of such separate parcel as determined by the Assessor from actual view.

Second. The names, arranged in alphabetical order, of the persons in whose name the real estate in each city, town or village, respectively, in such township, has been listed, and in appropriate columns opposite each name, the description of each parcel of real estate listed in such name, and the value of each separate parcel as determined by the Assessor from actual view. In cases where the name of the owner of any parcel of real estate is unknown it shall be so returned. Each parcel of real estate shall be described

according to the Congressional or other survey, division or subdivision, or according to the recorded plat or subdivision thereof and also in cases of parts of town lots by the number of feet along the principal street or streets upon which it abuts; and any description may be supplemented by reference to any public record of the county.

Assessor and
deputy's oath.

Sec. 102. Each Assessor or Deputy Assessor shall take and subscribe an oath, which shall be certified by the County Auditor, or other officer administering the same, and attached to the return which he is required to make to the County Auditor, in the following form:

I, _____, Assessor for the township of _____ in _____ County, in the State of Indiana, do solemnly swear that the return to which this is attached contains a correct description of each parcel of real property within said township, as far as I have been able to ascertain the same; that the value attached to each parcel in said return is, as I verily believe, the full and true cash value thereof, estimated agreeably to the rules prescribed by the law, particularly section 53 of the act concerning taxation; that in no case have I knowingly omitted to demand a statement of the description and value of all the real estate which I am required by law to list, or in any way connived at any violation or evasion of any of the requirements of the law in relation to the listing and valuing of real estate, subject to all the penalties hereinafter prescribed in section 253 of this act.

Which return shall be kept at the office of the County Auditor for the inspection of any owner of property contained in such return.

Memorandum
of assessment
to owner.

Sec. 103. Before or at the time of making such return, the Assessor shall leave with the owner or owners, or his, her, or their agent, if residing in the county, at his, her or their place of residence, a memorandum containing a description and value of each tract, lot or parcel of land, containing the amount of which his, her or their real estate has been assessed, respectively, and of the time when the Board of Review for the county will meet for the purpose of hearing and determining grievances and to equalize taxes within the same.

quadrennial
assessments.

Sec. 104. The first assessment of the real estate made in pursuance with the provisions of this act, shall be made in the year 1891, and a like assessment shall be made every four years thereafter, and the personal property shall be assessed at the same time such real property is assessed, and by the same person or persons, and each Assessor may, when taking lists of personal property, correct all errors of

assessment of real estate which he may discover on the books, either in the name of the person to whom the property is assessed by change of ownership or otherwise, or in the description of property. The Assessor shall annually thereafter also assess any real estate or improvement, found omitted and also note and list all changes found in improvements on real estate, and make return thereof to the County Auditor as in the year in which real estate is to be assessed.

Sec. 105. Each Assessor shall, on or before the first Monday of June, annually, make out and deliver to the Auditor of his county, in tabular form and alphabetical order, a list or lists of the names of the several persons, companies or corporations in whose names any personal property, moneys, credits or other taxables shall have been listed, on which list or lists he shall enter separately, in appropriate columns opposite each name, the aggregate value of the several species of personal property and taxables required to be listed as attested by the person required to list the same or as determined by the Assessor making separate lists of persons residing out of any incorporated city or town, and of any persons who are residents of an incorporated city or town.

The columns shall be accurately added up.

To such return shall be attached the following oath or affirmation, to be made by himself or his deputy, and certified by the County Auditor or other officer administering the same:

I, _____, Assessor for _____ Township, _____ County, in the State of Indiana, do solemnly swear (or affirm) that the value of all personal property, moneys, credits and other assessables, of which a statement has been made and attested by oath or affirmation of the person required by law to list the same, is truly returned as set forth in such statement; that in every case where by law I have been required to ascertain the amount and value of personal property and assessables of any person, company or corporation, I have diligently, and by the best means in my power, endeavored to ascertain the true amount and value of such personal property and assessables, and that, as I verily believe, the full value thereof so ascertained by me and estimated by the rule prescribed by law, particularly by section 53 of the act concerning taxation, is set forth in the annexed return; that in no case have I knowingly omitted to demand a statement of the description and value of personal property or of the amount of moneys and credits, or of the amount and value of other stocks or

Tabular list to
County Auditor,
contents.

bonds or other assessables, which any person is required by law to list; nor have I in any way connived at any violation or evasion of any of the requirements of law in relation to listing or valuing the personal property, moneys, credits, stocks or other assessables for taxation.

Omissions
and errors,
correction of.

Sec. 106. When the returns of the Assessors are received, the County Auditor, if satisfied that such Assessor has omitted any personal property, moneys, rights, credits, effects, stocks or real estate in his township which it was his duty to return, may, if he deems it expedient, authorize and require such Assessor to proceed to correct any error or omission which may have occurred as aforesaid, and in such case such Assessor, shall within ten days after being so required and authorized proceed to correct such errors and omissions and make returns thereof to such County Auditor; but nothing herein contained shall authorize any Assessor to reduce the amount assessed against any person in his former return, or the Auditor may himself ascertain the value and add the same to the assessment, and such County Auditor shall charge such person with the additional amount, if any, returned by such Assessor.

County Auditors can not increase the assessment of property as returned by Assessors, although the property is purposely undervalued. *Williams v. Segur*, 106 Ind. 368; *Florer v. Sherwood*, 128 Ind. 495; *Board v. Senn*, 117 Ind. 410.

City and town
plats.

Sec. 107. Before any addition is made to any city or town, the person making the same, before such plat is recorded, shall present the same to the County Auditor, who shall assess and apportion the true valuation of each lot or parcel of land described in such plat, in the same manner as other lots are valued, and thereupon such lots or parcels shall be entered on the tax list in lieu of the land included therein; but in making such valuation, regard shall be had to the next preceding valuation of the real estate, so that the said lots shall, as near as practicable, be equalized with adjacent lands and lots according to such valuation.

On presentation of a plat under this section to a County Auditor, he has the power to assess each lot as such for taxation, without regard to the former appraisal of the land. *Eschenberg v. Board*, 129 Ind. 368.

Omitted prop-
erty, assessor's
duty, oath.

Sec. 108. Whenever the Township Assessor, prior to the filing of his return with the County Auditor, shall discover or receive credible information, or have reason to believe that any real or personal property has been omitted in the assessment of any year or number of years from the

listing and assessing, or from the tax duplicate, or that any person, company, or corporation has for any cause omitted to list any part of his, her, or their property, or has not returned the full value of thereof, or that the tax for which such property was liable from any cause has not been paid, or that any real estate, by reason of defective description thereof, has failed to pay taxes for any year, or number of years, he shall proceed to correct his list and add such property to the assessment, so that such property and the owner thereof may be charged with the proper amount of taxes thereon; but, before making such correction or addition, if the person claiming to own such property or occupying it, or in possession thereof, resides in the county he shall give the person claiming to own, or occupying or having in possession such property, notice in writing of his intention to list such property, describing it in general terms, and requiring such person to appear before him at his office or place of business, at a specified time within ten days after giving such notice, to show cause, if any, why such property should not be listed and placed on the assessment book; and if the party so notified does not appear, or if he appear and fail to show to any good and sufficient cause why such assessment should not be made, such listing shall be made and the particular years for which such property should be listed shall be noted. Such Assessor shall also file with the County Auditor a statement in writing of his reasons for making such correction or assessment, and the facts or evidence upon which such reasons were based; the arrearages of tax which might have been assessed shall be charged against such person and property by the County Auditor. The County Assessor hereinafter provided for shall at any time during any year have the power and exercise the duties in this section prescribed for Township Assessors.

As to authority of Assessors relative to listing and assessment of omitted property, see *Saint v. Welsh*, 141 Ind. 382.

Where a private corporation had, in good faith, made out and delivered to the proper Township Assessor a verified schedule of its property, as provided by Section 73 of the general tax law of 1891 (Act 1891, p. 241), the failure thereafter of the County Board of Review to make any assessment for taxes against the property, does not preclude the County Assessor from listing for taxation the property of such corporation.

The failure of the County Assessor, on listing omitted property for taxation, to file in the County Auditor's office a statement of his reasons for listing the property, will not render the assessment invalid, where there is no other assessment against the owners of such omitted property. *Hunter Stone C. v. Woodard*, 132 Ind. 474.

It is not necessary whether the court should determine whether this section applies to the listing and assessing for the current year as to arrearages, for it is manifest that it applies to corrections and not to the making of original assessments. *Chicago & Erie Railroad Co. v. John, Treas.*, 150 Ind. 116.

It is not only the duty of the County Assessor and other taxing officers to search for, discover, list, and assess all omitted property subject to taxation for the current year, but for previous years, and in the

performance of this duty such officers are authorized to use all the means and instrumentalities the law provides. State ex rel. Morgan, Assessor, v. Real Estate, etc., Assn. et al., 151 Ind. 504.

Irregularities
not vitiate
assessments.

SEC. 109. A failure to complete or return an assessment of property, real or personal, by the Township Assessor within the time required by this act, or any informality or irregularity in making the assessment, or in the tax lists, or errors of any kind therein, shall not vitiate the same, but the same shall be as legal and valid as if completed and returned in the time required by law, and such informalities or irregularities may be corrected at any time after such return is made, and if any property is listed or assessed on or after the first day of June, and before the return of the Assessor's books, the same shall be as legal and binding as if listed and assessed before that time, but nothing in this section shall be so construed as to release such Assessor from any penalty imposed upon him by law for his neglect or failure to make his return within the period prescribed by this act.

Alphabetical
return of lists,
plats.

SEC. 110. Each Assessor shall, at the time he makes return of taxable property to the County Auditor, also deliver to him all the statements of property which he shall have received from persons required to list the same, arranged in alphabetical order, corresponding with his list or lists, and also all the plats used in assessing real estate; and the Auditor shall carefully preserve the same in his office.

Assessor fail-
ing to swear
oath, penalty

SEC. 111. If any Assessor or Deputy Assessor shall fail or neglect to administer to any person by him assessed any oath required by this act to be administered, he shall forfeit and pay to the State of Indiana, for the use of the school fund, the sum of twenty dollars for each case of such omission and neglect, which may be recovered by an action in the name of the State of Indiana on the relation of the Prosecuting Attorney, before any Justice of the Peace of the county, together with the costs of such action.

[As amended 1890. In force on publication of laws of 1890.]

SEC. 112. There shall be elected on the first Tuesday after the first Monday in November, 1892, and every four years thereafter in each county in this State, one County Assessor, who shall possess the powers and perform the duties hereinafter specified, and no person shall be eligible for election more than twice in any term of twelve (12) years. Such County Assessor shall be a resident freeholder and householder of the county not less than four (4) years before the date of such election. Within ten days after his election, he shall give bond with two or more good and sufficient freehold sureties, to be approved by the County Auditor, in the sum of five thousand dollars (\$5,000), payable to the State of Indiana, and conditioned for the faithful and impartial discharge of his duties, and shall take and subscribe to an oath or affirmation to be indorsed on his

bond that he will faithfully and impartially and honestly discharge the duties of his office, which oath shall be in the form, as near as may be, of the oath of Township Assessors as set out in section 90 of this act. Said bond shall be deposited with the County Auditor, who shall administer the oath indorsed thereon. If any vacancy shall occur in said office, the Board of County Commissioners shall fill the same at any regular (or) special session. Each County Assessor shall receive three dollars (\$3) per day for the time actually employed in the duties of his office, to be paid out of the County treasury on order of the Board of County Commissioners, on his filing therewith an itemized statement duly verified, showing the time actually employed by him and the nature of his services: *Provided*, That in counties having a population of more than one hundred thousand, the County Assessor shall receive \$1,800 per annum, to be paid out of the county treasury, and he shall keep his office open each and every business day during the year, and shall be authorized to appoint one deputy, who shall receive two dollars and fifty cents per day, to be paid out of the county treasury, upon proper allowance to be made by the Board of County Commissioners. Whenever any County Assessor shall have information that leads him to believe that any resident of his county has omitted or sequestered any of his property and not properly returned the same for taxation, and to enable him to fully investigate the same by examination of records and otherwise in other counties of this State and adjoining States, that it shall be his duty to communicate his information to the Board of Commissioners of his county, who if satisfied that the information of said Assessor will warrant the expense, they may make an order directing him to visit such county or counties to make such examination of records and otherwise, and when so ordered he shall make such visit and examination and said Board of Commissioners shall allow and pay to such Assessor the actual expenses incurred by said Assessor to be shown by his itemized and verified statement, accompanied by a voucher for such item of expense.

SEC. 113. As soon as such County Assessor has qualified, he shall receive from the County Auditor all returns of real and personal property made by the Assessors of the several townships of the county, together with all assessment lists, schedules, statements, maps, and other books and papers filed with the Auditor by said Township Assessors. It shall be the duty of such County Assessor to make a careful examination of the tax duplicate of the county, and also of all other records and papers in the offices of the County Auditor, Treasurer, Recorder, Clerk, Sheriff and Surveyor,

Duties of
County
Assessor.

and to list and assess, at its true cash value, upon the proper Township Assessor's books and to the proper persons, all omitted assessable property, of every kind and nature whatsoever, including tax certificates, mortgages, debts, judgments, claims and allowances of courts and legacies and property in the hand of administrators, executors, guardians, assignees, receivers, trustees, and other fiduciaries. The valuation made on any omitted property by the County Assessor shall be entered in a separate column under the head of "Valuation by County Assessor" immediately after the column containing the valuation by the Township Assessor in the several lists and returns of said Township Assessors. The County Assessor shall have all the rights and powers given by law to Township Assessors for the examination of persons and property, and the discovery and assessment of property, and making lists and returns of the same. He shall, on or before the first Monday after the 4th day of July in each year, make returns to the County Auditor of all Township Assessor's books, returns, lists, schedules, maps, and other papers received by him from the Auditor, together with such additional lists, assessments, books and papers as he has made thereto; and all assessments so made by the County Assessor shall have the same force and effect as if made in the first instance by the Township Assessor. It shall also be the duty of the County Assessor, at any time during the year, to list and assess upon the proper Assessor's books in the office of the County Auditor any omitted property that he may discover and which should be assessed; and the same shall be placed upon the duplicate by the Auditor, and the taxes thereon extended and collected as in other cases. The County Assessor is hereby authorized and required to advise and instruct all Township Assessors of his county as to their duties under the law, and for this purpose he shall visit each Township Assessor during the months of April or May in each year. The County Assessor is also given all the powers hereinafter given to County Auditors and Treasurers as to assessment of omitted property after the meeting and adjournment of the Board of County Review in each year, and all provisions of sections 142 and 182 of this act, as to notice or otherwise, so far as applicable, shall apply to such assessment by the County Assessor as if the same were made by the County Auditor or the County Treasurer. On order of the County Commissioners, duly entered of record at any regular or special meeting of the board, the County Assessor may appoint one or more deputies to serve such time, not exceeding thirty days in any one year, as the Commissioners shall direct, who shall have the same qualifications, possess the same powers and

Deputy
County
Assessors.

..

perform the same duties as the Assessor, subject to his control and direction. They shall receive such compensation as the County Commissioners shall fix, not to exceed two dollars per day.

County Assessors have the same power to examine persons as to property for taxation as Township Assessors, and persons who refuse to answer are subject to the penalty provided by Section (8467) 57. Burns v. State, 5 Ind. App. 385.

County Assessors are authorized to assess property for taxation that was omitted from assessment for years prior to the taking effect of the Acts of 1891, by which the office of County Assessor was created. Saint v. Welsh, 141 Ind. 382.

The employment of agents unknown to the law to discover and collect taxes on property which has escaped assessment is contrary to public policy. State ex rel. v. Hlyes, 87 Ind. 465, 469.

Before the assessment of omitted property by the County Assessor the property owner should have notice, but an appearance by such owner to resist the assessment will be sufficient to confer jurisdiction over him. Denton v. Terry, 141 Ind. 677.

The Assessor and his deputies have authority under the statute to administer all necessary oaths in connection with tax lists. State v. Reynolds, 168 Ind. 353.

The tax laws of the State make it the duty of County Assessors to assess all property which has been omitted from taxation, and for that purpose he not only has the power expressly given him by statute, but also the power given to Township Assessors, County Auditors, and Treasurers. State ex rel. Morgan, Assessor v. Real Estate, etc., Assn. et al., 151 Ind. 503.

[1895, p. 74. In force March 1, 1895.]

SEC. 114. There shall be an annual board for the review of assessments and the equalization of the valuation of real and personal property in each county. Such board shall be composed of the County Assessor, County Auditor, and County Treasurer, and two freeholders to be appointed by the Judge of the Circuit Court, who shall each be paid out of the county treasury, the sum of \$3 for each and every day while they are acting as members of said board. The County Assessor shall be President and the County Auditor Secretary of said board, which shall be known as the "County Board of Review." The board shall meet for assessment, review and equalization of taxes at the county of the County Commissioners, in the court house of each county on the third Monday in June annually. Two weeks' previous notice of the time, place and purpose of such meeting shall be given by the County Auditor in some newspaper of general circulation, printed and published in the county; or if no newspaper be published in the county, then by posting up notices in three public places in each township in the county. Such board shall have the power to hear complaints of any owner of personal property, except "railroad track" and "rolling stock" of railroads, to equalize the valuation of property and taxables made subsequent to the preceding first day of April and to correct any list of valuation as they may deem proper. It shall also have the power to equalize the valuation made by the Assessors, either by adding to or deducting therefrom such sums as are necessary to fix the assessment at the true cash

Time of
meeting.

Powers and
duties.

value. In all cases where the County Board deems it necessary to add omitted property, or to increase the valuation thereof by the Assessor, the County Auditor shall cause the names of the persons to whose list property is to be added or the valuation of whose property is to be increased, to be inserted in the notice hereinbefore provided for; or such Board may, at its option, cause to be served upon the person to whose list property is to be added, or the valuation of whose property is to be increased, a written notice that it is proposed to revise or correct his list, but such notice need not specify the particulars in which it is proposed to revise or correct the list or returns, nor shall it be necessary to specify particularly in the published notice, but it shall be sufficient in any or all such notices to state generally that it is proposed to correct or revise the returns, list, statement or schedule of the person or persons named; when such notice or notices are ordered by said Board to issue, they shall be served by such County Assessor. In case such County Assessor neglects to serve the written notices herein provided for, they shall be issued by the Auditor to the Sheriff of the county, who shall serve the same at least three days before the matter comes up for hearing. In case the Board adjudges that the returns, statement or schedule list shall be revised or corrected by adding property thereto, or by increasing the valuation of any property therein described, the taxpayer whose list, return, statement or schedule it adjudges, shall be revised or corrected as aforesaid, shall be liable for all costs occasioned by such revision or correction. The Board shall correct all errors in the names of persons, in the description of property upon said list, and in the assessment and valuation of property thereon, and shall cause to be done whatever else may be necessary to make said lists and returns of assessments comply with the provisions of this act. It shall pass upon each valuation, and may, on sufficient cause being shown, or on its own motion, correct the assessment or valuation of any property in such manner as will, in its judgment, make the valuation thereof just and equal, and enter the valuation, when so changed by it in a separate column. A majority of said Board shall constitute a quorum for the transaction of business, and may decide any question. Before entering upon their duties the members of the Board of Review shall each take and subscribe an oath for the faithful and impartial discharge of their duties as members of said Board, which oath shall be administered by the Auditor to the Assessor, Treasurer and freeholders,

and by the Assessor to the Auditor, and shall be filed with the Auditor, and shall be in the form following:

STATE OF INDIANA, COUNTY, ss: Oath of Board.

I,, do solemnly swear that I will support the Constitution of the United States, and the Constitution of the State of Indiana, and that I will faithfully and impartially discharge my duty as a member of the Board of Review for said county; that I will, according to my best knowledge and judgment, assess, review and equalize the assessment of all the property of said county, and that I will in no case assess any property at more or less than its true cash value, as such value is defined by Section 53 of the act concerning taxation, so help me God.

.....
Subscribed and sworn to this, day of, 189....

At such meeting the County Auditor shall submit to the Board of Review the assessment list of the county as returned by the Township Assessors and added to and returned by the County Assessor for the current year, and the Board shall proceed to examine and review the same. In addition to his other duties, it will be the duty of the County Assessor to report to the Board of Review for the action of the Board all corrections and changes in the returns and assessments of the Township Assessor, which in the judgment of the County Assessor, ought to be made.

The Board of Review will consider and act upon all recommendations made by the County Assessor, and will also, of its own motion or on sufficient cause being shown by any person, add to the assessment lists the names of persons, the value of personal property and the description and value of real estate liable to assessment and omitted on said lists. The Board shall correct all errors in the names of persons, in the descriptions of property upon said lists and in the assessment and valuation of property thereon, and shall cause to be done whatever else may be necessary to make said lists and returns of assessments comply with the provisions of this act. The Board shall pass upon each valuation, and enter the valuation as fixed by it, in a separate column. The list, as prepared by the Assessors, shall stand as approved and adopted as the act of the Board of Review, except as changed by a vote as herein provided. The Board may, on sufficient cause being shown or on their own motion, correct the assessment of valuation of any property in such manner as will in their judgment make the valuation thereof just and equal. To that end the

Reports by
County
Auditor and
Assessor.

Further duties
of Board of
Review.

Board may examine, on oath, any person touching the matter. Any member of said Board may administer such oath. Said Board is hereby given full power to send for persons and papers and to compel witnesses to answer under oath, touching any question concerning the assessment and valuation of property. The Sheriff of the county shall serve all process not served by the County Assessor, and obey all orders of said Board. Nothing, however, in this section shall be taken or construed to authorize the Board to assess any property at more or less than its true cash value as the same is defined in Section 53 of this act. Where it appears from the returns of the Assessors or from the corrections made in said return by the Board, that any property owner has *bona fide* indebtedness, the same shall be deducted from the amount of his credits, listed in the county, and he shall be assessed only on the residue of his credits, which residue shall be fixed by the Board of Review.

A Board of Review must meet and organize as the law requires, or its acts will be void. *Hyland v. Brazil*, etc., Co., 128 Ind. 355.

County Boards of Review have no power to change the valuation of property for taxation without notice to the property owner. *Kuntz v. Sumption*, 117 Ind. 1.

A general notice to the public, by publication or posting, of the time, place and purpose of the meeting of the Board of Review, is not such notice to an individual taxpayer as is required to authorize a change in the valuation of his property as returned by the Assessor. *Kuntz v. Sumption*, 117 Ind. 1.

The fact that the taxpayer actually has notice of the proceeding is not sufficient to authorize a disposition of his individual property rights, as notice must be given to him under the statute providing for it, or it will be unlawful. *Kuntz v. Sumption*, 117 Ind. 1.

Where the personal property of a railroad company has been assessed by the Township Assessor, the Board of Review has no power to increase the assessment so made, and an action may be maintained to recover taxes paid under such wrongful assessment. *Cleveland, etc., Ry. Co. v. Board*, etc., 19 Ind. App. 58.

A County Board of Review has the power, and it is one of its duties, to add and assess omitted property, and to investigate and determine whether a citizen is the owner of property, subject to taxation, which he has omitted from his tax lists. To that end, it may examine witnesses, each member having power to administer all necessary oaths in the discharge of the duties of the board, and a prosecution for perjury may be predicated upon testimony given in such cases. *State v. Wood*, 110 Ind. 82, 85.

The notice of intention to assess omitted property need describe the property only in general terms. *Reynolds v. Bowen*, 138 Ind. 434, 440.

Where property of a decedent has been omitted from taxation, the administrator is the person to be notified before adding and assessing such omitted property. *Reynolds v. Bowen*, 138 Ind. 434, 440.

The powers conferred upon County Boards of Review are of a quasi-judicial character, and their judgments are not open to collateral attack. If errors or irregularities are committed, they must be corrected in the mode pointed out by statute, and if not so corrected, they are conclusive, as the courts have no power to control the discretion of such boards. *Biggs v. Board*, etc., of Lake County, 7 Ind. App. 142; *Jones v. Rushville Nat. Gas Co.*, 135 Ind. 505; *Senour v. Matchett*, 140 Ind. 636.

A County Board of Review has original exclusive jurisdiction of the assessment of the capital stock of ordinary domestic corporations where the value of such stock exceeds the value of the tangible property of such corporation, and whether the value of such stock exceeds the value of the tangible property is a question for such board to decide, and such decision is not subject to be questioned collaterally. *Jones v. Rushville Nat. Gas Co.*, 135 Ind. 505.

Prior to the enactment of the law authorizing the taxation of legal tender notes (greenbacks), a County Board of Review had power to determine whether a taxpayer had temporarily converted his taxable money into such notes for the express purpose of evading the payment of taxes thereon, and the action of such board could only be reviewed by an appeal or some other direct proceeding. *Senour v. Matchett*, 140 Ind. 636.

A County Board of Review has no authority to raise the assessment of property as fixed and returned by the Assessor, without giving the notice required by statute to the taxpayer whose assessment is increased, unless such board obtains jurisdiction over such taxpayer by an appearance before such board, and the appearance of a cashier of a bank before such board for the purpose of testifying at the instance of such board, is not such an appearance by such bank as will authorize the board to increase the assessment against such bank without giving of the notice required by the statute. *Eaton v. Union*, etc., Nat. Bank, 141 Ind. 159.

The law grants an appeal from a County Board of Review as a matter of right, and if the taxpayer fails to exercise it in any way, the neglect of the State Tax Board to provide regulations and furnish blanks is not an available excuse for his failure to demand an appeal. *Senour v. Matchett*, 140 Ind. 636.

A County Board of Equalization has power to inspect and examine the books and papers of banks and other corporations, and may require witnesses to testify, for the purpose of learning whether property has been omitted from assessment before giving any notice to any taxpayer that such board is about to assess property omitted by him; and on the appearance of a witness before such board who refuses to answer proper questions, such board may obtain a mandate from the Circuit Court requiring such witness to answer such questions, and on his refusal to obey such mandate, he may be punished as for a contempt. *Satterwhite v. State*, 142 Ind. 1.

Mandamus may issue against a building and loan association and its officers to compel them to allow an inspection of the association's books by the County Assessor, as provided by Section 844 (Section 34, Tax Laws), for the purpose of determining whether any of the stock in the association has been omitted from taxation. *State ex. rel. Morgan v. The Real Estate Building and Loan Association et al.*, Monroe Circuit Court. (Decided by Supreme Court Nov. 25, 1898. Not yet published in official reports.)

[1895, p. 74. In force March 1, 1895.]

Sec. 115. It shall be the duty of such Board, at such meeting to inquire as to the valuation of the various classes of property in the respective townships and divisions of the county, and to make such changes, whether by way of increase or decrease, in such valuation as may be necessary to equalize the same as between the townships or divisions of townships, and to determine the rate per cent. to be added or deducted in order to make a just and equitable equalization in the respective townships and divisions, so as to conform throughout the county to a just and equitable

Duties as to
equalizing
valuation.

standard, reference being had to the natural and artificial characteristics and surroundings, and other elements of value. Such Board shall also have power, in proper cases, to reduce or increase the valuation of any particular tract or lot. Such Board may consider lands, town lots and city lots as separate classes, if necessary, for the purpose of equalization, and determine a per cent. of addition or reduction for such or any of said classes within the respective townships, as between the several townships or other divisions. The Board shall have no power to reduce the aggregate valuation of all the townships below the true cash value, nor increase the same beyond the amount actually necessary for a proper and just equalization. If the Board shall find the aggregate assessment is too high or too low, or is generally so unequal as to render it impracticable to equalize the same, it may set aside the assessment of the whole county, or of any township or townships therein, and order a new assessment, with instructions to the Assessors to increase or diminish the aggregate assessment of their respective townships in such amount as the Board may deem right and just and consistent with law. The duration of the session of the Board of Review shall not exceed twenty days, except in the years for assessment of real estate. In such years the session of the Board of Review shall not exceed thirty days.

In computing the time in which a County Board of Review may continue in session, intervening Sundays are to be included, and any action taken by such board after the time fixed by law for the termination of its session is void. *Toem v. First Nat'l Bank*, 144 Ind. 272.

Courts can not alter the assessments as fixed by Boards of Review in the absence of fraud or mistake. *Rhoads v. Cushman*, 45 Ind. 83.

The powers conferred upon County Boards of Review are of a quasi-judicial character, and their judgments are not open to collateral attack. If errors or irregularities are committed, they must be corrected in the mode provided by the statute, and if not so corrected, the action of such board becomes conclusive, as the courts have no power to control the discretion of such board. *Jones v. Nashville Nat. Gas Co.*, 135 Ind. 565; *Senour v. Matchett*, 140 Ind. 636; *Biggs v. Board, etc., of Lake County*, 7 Ind. App. 142.

A County Board of Review should remain in session, and not finally adjourn, until the time fixed by law for the termination of its session has expired. (State Board of Tax Commissioners.)

County Auditor to keep record of Board.

SEC. 116. The County Auditor shall keep a full and accurate minutes of the proceedings of the Board of Review.

State Board of Tax Commissioners.

SEC. 117. Immediately upon the taking effect of this act, the Governor shall appoint two skilled and competent persons, not more than one of whom shall be of the same political party, who, together with the Secretary of State, Auditor of State and Governor, the last three of whom

shall *ex officio* be members, and the Governor chairman thereof, shall constitute and be a board to be denominated the State Board of Tax Commissioners, who shall perform the duties and have the powers hereinafter specified.

SEC. 118. The Governor shall commission the Commissioners so appointed as aforesaid, and before entering upon the discharge of their official duties they shall each execute a bond payable to the State of Indiana, in the penal sum of \$10,000 (ten thousand dollars), with sureties to the approval of the Governor, for the faithful discharge of their official duties, and they shall each take and subscribe an oath of office, as hereinafter set out, which oath shall be indorsed upon their official bond, which bond and oath, when so executed, shall be filed in the office of the Secretary of State.

SEC. 119. The members of the first Board shall hold their offices, one for two years and one for four years, the said members to determine by lot, after they are chosen, in any manner they may agree upon, which one shall hold his office for two years and which one for four years, respectively. And thereafter persons so chosen as members of such Board shall hold their office for a term of four years.

SEC. 120. It shall be the duty of the State Board of Tax Commissioners:

First. To prescribe all forms of books and blanks used in the assessment and collection of taxes, and to change such forms when prescribed by law, in case any such change shall be necessary.

Second. To construe the tax and revenue laws of the State and instruct them in relation to their duties with reference to taxation and assessments, whenever requested so to do by any officer acting under any such laws, or by any other person interested therein.

Third. To see that all assessments of property in this State are made according to law.

Fourth. Especially to see that all the railroads and other corporations of the State are assessed and taxed as provided by law.

Fifth. To see that all taxes due the State are collected.

Sixth. To enforce penalties prescribed by any revenue law of the State for disobedience of its provisions.

Seventh. To determine, whenever necessary, the amount required to be levied upon property in the several counties to cover any deficiency in the State revenue, not otherwise provided for.

Eighth. To examine all books, papers and accounts, and to interrogate under oath, or otherwise, all persons necessary to enable the Board to acquire and obtain all information that could in any manner aid it in securing a compliance with the tax and revenue laws of the State by all persons or corporations liable to taxation, or to pay any license fee under any law in force in this State.

Ninth. To make such rules and regulations as the Board shall deem proper to effectually carry out the purposes for which the Board is constituted, and to make all necessary rules and regulations not inconsistent with law, as the Board may deem necessary with respect to its own meetings and procedure.

Tenth. To report to the General Assembly, at each session, the whole amount of revenue collected in the State for all purposes, classifying as to State, county, township, and municipal purposes, with the sources thereof, the amount lost and the causes of the loss, the proceedings of the Board, and such other matters of information concerning the public revenues, as they may deem of public interest.

Eleventh. To make diligent investigation and inquiry concerning the revenue laws and systems of other States and countries, so far as the same are made known by published reports, or statistics, or can be ascertained by correspondence with officers thereof, and with the aid of information thus obtained, together with experience and observation of our own laws, to recommend to the General Assembly at each session thereof, such amendments, changes or modifications of our revenue laws as seem proper or necessary to remedy injustice or irregularity in taxation, or to facilitate the assessment and collection of public revenues.

Twelfth. To see that each county in the State be visited by at least one member of the Board, as often as once each year, to the end that complaints concerning the law may be heard, and that information concerning its workings may be collected. That all revenue officers comply with the law, and all violations thereof be punished, and that all proper suggestions as to amendments and changes may be made.

The act of March 6, 1891, and subsequent acts relating to taxation, creating a State Board of Tax Commissioners and providing, among other things, for the assessment of "railroad track" and "rolling stock" of railway companies by said State Board, are valid enactments, and do not deny to such property owners "due process of law" or "the equal protection of the law" in the assessment of their property. *Cleveland, etc., R. R. Co., v. Backus*, 133 Ind. 513, 541; *Pittsburg, etc., R. R. Co. v. Backus*, 133 Ind. 625, 652.

The validity of such enactments was, also, proclaimed by the Supreme Court of the United States in the case of *Pittsburg, etc., Ry. Co. v. Backus*, 154 U. S. 821.

SEC. 121. A record of the proceedings of such Board Record. shall be kept at the capital, open to the inspection of the public. A majority of such Board shall constitute a quorum. run to do business.

The record required to be kept by the State Board of Tax Commissioners is final and conclusive, and the courts can not inquire into the assessments made by such board, unless it be attacked for fraud. *Indianapolis, etc., Ry. Co. v. Backus*, 133 Ind. 499.

SEC. 122. The members of said Board, except the Sec- Compensation retary, Auditor and Governor, shall each receive as compensation for his services the sum of twenty hundred dollars a year, payable quarterly out of appropriations to be made for that purpose. They shall also receive traveling expenses actually paid, necessary to the performance of the duties of the office, which expenses shall be itemized by the person incurring the same, and when the account of the same is approved by the Governor, it shall be paid, not exceeding six hundred dollars per annum each, and not otherwise.

SEC. 123. The said Board, or any member thereof, Examination shall have power to subpoena and examine witnesses, to administer oaths, and shall have access to and the power to or Oath. der the production of any books or papers in the hands of any person, company or corporation whenever necessary in the prosecution of any inquiries necessary or proper in their official capacity.

SEC. 124. Any person who shall disobey any subpoena, Penalties. or subpoena *duces tecum* of said Board or any member thereof, or refuse to testify, when requested so to do by said Board or any member thereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than \$50, nor more than \$1,000 for each offense.

[1895, p. 74. In force March 1, 1895.]

SEC. 125. Any person, partnership, company, associa- Appeals from tion or corporation dissatisfied with the action of the County Board of Review, upon any original assessment or upon any application to increase or decrease the assessment made by any Township or County Assessor, or upon any order for the assessment of hidden or omitted property, shall have the right to appeal from the order or assessment of the County Board of Review to the State Board of Tax Commissioners;

and in like manner any Township or County Assessor, or any member of the County Board of Review, or any taxpayer or tax-payers of the county shall have the right to appeal to the State Board of Tax Commissioners from any original assessment, made by said County Board of Review, and from any order of the County Board of Review increasing or decreasing any assessment, or refusing to increase the same, or to assess hidden or omitted property, upon giving notice of such appeal within five days after the adjournment of the County Board of Review, to the County Auditor of the county from which said appeal is to be taken. Upon receiving notice of such appeal, the Auditor of such county shall forthwith make out a statement, in writing, showing concisely the substance of the complaint made, if any, and the action of the Board thereon, and shall transmit the same by mail to the Auditor of State, who shall lay the same, for its action, before the State Board of Tax Commissioners when it shall convene: *Provided*, That such State Board of Tax Commissioners may make such regulations in regard to the taking of appeals, not inconsistent herewith, as they may deem necessary to protect the rights of the parties questioning their assessments. Such State Board of Tax Commissioners shall, upon appeal from an assessment by the party aggrieved, assess the property in controversy. The Auditor of State shall certify to the Auditors of the several counties, all such changes made by the said State Board of Tax Commissioners, showing in the first column the assessment made by the county or township officials, and in the second column the assessment as made by the said State Board of Tax Commissioners, which latter amounts shall be by said Auditor extended on the tax duplicates in lieu of the amounts fixed by said township or county officials, or by the said County Board of Review: *Provided, further*, That it shall be not necessary for said Auditor of State to issue separate notices of certificates with reference to each person affected, but he may include all persons affected in any one county in one or more notices of certificates: *Provided, further*, That the pendency of such appeals shall not operate to stay the collection of any tax, except by special order of the Board, and upon such conditions as it may prescribe.

Without an appeal from the County Board of Review, the State Board of Tax Commissioners has no jurisdiction and can not raise an assessment. *First Nat'l Bank v. Brodbeck*, 137 Ind. 693, 694; *Jones v. Rushville Nat'l Bank*, 138 Ind. 87, 91.

The law grants an appeal from the County Board of Review as a matter of right, and if the taxpayer fails to exercise it in any way,

the neglect of the State board to provide regulations and furnish blanks is not an available excuse for his failure to demand an appeal. *Senor v. Matchett*, 140 Ind. 636.

The State Board of Tax Commissioners has no original jurisdiction to revise individual tax lists other than "railroad property," and the equalization of assessments of real estate. *Jones v. Rushville Nat'l Bank*, 138 Ind. 87; *Cummings v. Stark*, 138 Ind. 94; *Eaton v. Union Bank*, 141 Ind. 139.

Where the County Board of Review fixes the amount that the property of a national bank shall be assessed at for taxation, and no appeal is taken from the action of such board, the State Board of Tax Commissioners can not increase the assessment made by such County Board of Review. *Jones v. Rushville Nat'l Bank*, 138 Ind. 87; *Cummings v. Stark*, 138 Ind. 94; *Eaton v. Union Bank*, 141 Ind. 139.

SEC. 126. The duties imposed by this act, as specifically set out in section 120, so far as the same can be consistently done, shall be done and performed by the two members of the Board specially chosen to act as such, and the Governor, Auditor and Secretary of State shall only be required to sit with the Board and take part in its proceedings when performing the duties heretofore devolving upon the State Board of Equalization, and at such other times and under such other circumstances as may be rendered necessary in order to effectually carry out the purposes of this act.

SEC. 127. In case a vacancy shall occur by reason of the death, resignation or removal of either of the Commissioners specially chosen to act as such, the Governor shall appoint a successor to fill out the unexpired term of the officer whose office is thus made vacant. And in such appointment the Governor shall appoint a person from the same political party as the officer whose office is thus made vacant.

SEC. 128. It shall be the duty of the Custodian of Public Buildings to furnish a suitable room in the Capitol building, and the Auditor of State shall provide all such printing and stationery, as may be necessary for the transaction of the business of said Board.

[1895, p. 74. In force March 1, 1895.]

SEC. 129. That said Board of State Tax Commissioners shall annually convene in the office of the Auditor of State on the second Monday of July of each year for the purpose of assessing railroad property — denominated "railroad track" and improvements thereon, and "rolling stock" and all property belonging to telegraph, telephone, palace car, sleeping car, drawing room car, dining car, express and fast freight joint stock association companies, copartnership and corporations, transacting business in the State of Indiana, and shall devote such time as shall be necessary

Further duties.

Vacancy in office Tax Commissioner, how filled.

Custodian's duty.

Meetings of State Board of Tax Commissioners

Rules as to
rehearings.

Chairman.

Secretary.

to make such assessments, not exceeding, however, twenty (20) days. They shall reconvene on the first Monday succeeding said first session for the purpose of hearing appeals and applications for revision of assessments which, by law, they are required or permitted to make, and for the purpose of equalizing the assessment of real estate whenever real estate is to be assessed or equalized as provided by law. During the years when they are required to equalize real estate they shall remain in session such length of time as the business may require not exceeding twenty (20) days, and not exceeding fifteen (15) days in other years. They shall reconvene on the first Tuesday succeeding the expiration of the fifteen (15) or twenty (20) days limitation of their session, for hearing appeals and applications for revisions, for the purpose of hearing complaints or applications for change in the assessment made, by the owners of railroad property, and all other persons, partnerships, associations, companies, or corporations whose assessments have been fixed at the first session in this section provided for, but such session shall not exceed ten (10) days. Before adjourning such first session, said Board shall designate in what manner parties desiring to be reheard as to the assessments made, shall apply for relief, and such persons may be heard either upon printed or written petitions with accompanying affidavits and exhibits or upon oral testimony, as the Board, at its first session, may order; or the Board may in its discretion, at its third session permit the hearing of oral or written testimony in case it shall appear to the Board that such course will be more satisfactory. The assessment made at the first session of the Board shall stand as the assessment by the Board unless application is filed with said Auditor of State for a reassessment, or for relief from the original assessment, at least five (5) days before said third session, and the assessment, when finally determined by said Board shall stand as the final assessment of such person and be certified to the proper official by the Auditor of State. Said Board shall organize with the Governor as Chairman, and whenever the Governor is absent from the session of the Board, they shall elect a member of the Board to act as Chairman in his absence, and the Deputy Auditor of State, or in his absence, one of the clerks in the office of the Auditor of State, to be designated by him, shall act as Secretary of the Board. The said State Board of Tax Commissioners is hereby given all the powers given to County Boards of Review. They shall not be bound by any reports or estimates of railroad, real estate or

other property as returned to the County Auditors, or to the Auditor of State, or certified to the Auditor of State in connection with appeals or applications for revision, review or assessment, but shall appraise and assess all property coming before them for assessment, directly or indirectly, at its true cash value as defined by the act of which this section is amendatory, according to their best knowledge and judgment. They shall have power to send for persons, books and papers, to examine records, hear and question witnesses. The State Board of Tax Commissioners shall have power to issue subpoenas, *duces tecum*, and to compel the attendance of witnesses, and the production of such books papers and records as, in the judgment of the Board, is necessary to a full and complete exercise of the powers vested in said Board, and to use the same in evidence. It shall have power to subpoena, swear and examine witnesses relative to any matter in controversy before said Board, and any member of the Board may administer an oath to such witness or witnesses. The Sheriff of the county shall serve any order, subpoena or process of the Board and receive such compensation therefor as is now provided by law. The Sheriffs of the several counties of the State shall serve all process and execute all orders of the Board. Any member of the Board may administer an oath, touching all matters under investigation. All necessary costs and expenses of said Board shall be paid out of the State Treasury upon warrants drawn by the Auditor of State when the same shall have been allowed by the Board.

May administer
oath.

Sheriff's
duties.

The Legislature can not confer upon the State Board of Tax Commissioners the power to punish persons for contempt who fail to appear before such board in obedience to its process and answer such questions as may be propounded by such board or under its direction. *Langenberg v. Decker*, 131 Ind. 471.

The clause in said Section 129 reading: "The said State Board of Tax Commissioners is hereby given all the powers given to County Boards of Review," does not confer on said State Board of Tax Commissioners original jurisdiction over all the property, real and personal, in the State. *Jones v. Nashville Nat'l Bank*, 138 Ind. 87.

The State Board of Tax Commissioners has no original jurisdiction to revise individual tax lists other than "railroad property," and the equalization of the assessment of real estate; and not having such power, such board can not order an addition to be made by the County Auditor to the tax list of an individual, unless jurisdiction is given to such board by an appeal as provided by law. *Cummings v. Stark*, 138 Ind. 94; *Eaton v. Union*, etc., Nat. Bank, 141 Ind. 136.

The powers conferred upon the State Board of Tax Commissioners are of a quasi-judicial character, and the acts of such board are not open to collateral attack. Errors or irregularities committed by such board must be corrected in the mode pointed out by the statute. Courts have no power to control the discretion of such board. *Biggs v. Board*, etc., of Lake County, 7 Ind. App. 142.

The court can not inquire into the proceedings of the State Board of Tax Commissioners in the absence of statutory authority, and determine whether such board arrived at just valuations or not, and grant relief against erroneous assessments of such board; and the court having no such power in this State, the decision of the State Board is final. *Cleveland, etc., Ry. Co. v. Backus*, 133 Ind. 513; *Pittsburg, etc., Ry. Co. v. Backus*, 133 Ind. 625.

When the State Board of Tax Commissioners has fixed the valuation of property falling within its jurisdiction, and has assessed such property, its action in that behalf is final, and can not be avoided or set aside, except for fraud on the part of such board, which would render the assessment void. *Cleveland, etc., Ry. Co. v. Backus*, 133 Ind. 513; *Pittsburg, etc., Ry. Co. v. Backus*, 133 Ind. 625.

The State Board of Tax Commissioners, in fixing the valuation of corporate property for taxation, is not confined for information to the statements furnished by such corporations as required by statute, but may resort to other means to obtain information. *State v. Adams Ex. Co.*, 144 Ind. 549.

Oath of
members.

SEC. 130. The several persons constituting the Board, as herein provided, before entering upon the discharge of their duties as members of said Board, shall each take and subscribe an oath for the faithful and impartial discharge of their duties as members of such Board, which oath, together with the oath of the secretary, shall be filed and preserved with the proceedings of the Board. Which oath shall be in the form following, to wit:

STATE OF INDIANA,

Marion County, ss:

I, _____, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Indiana; that I will faithfully and impartially discharge my duties as a member of the State Board of Tax Commissioners, that I will, according to my best knowledge and judgment, assess and equalize the property of the several counties of this State, and that I will in no case assess any property at more or less than its true cash value, as the same is defined in section 53 of the act concerning taxation, so help me God.

Subscribed and sworn to this _____ day of _____,
189—

Oath of
Secretary.

SEC. 131. The secretary shall take and subscribe an oath for the faithful performance of his duties as said secretary, and shall keep a record of the proceedings of the Board, which shall be certified by the chairman and secretary and filed in the office of the Auditor of State.

(As amended by Act March 27, 1901.)

Section 132. Any three members of said board shall constitute a quorum for the transaction of business, and the board may adjourn from time to time until the business before it is finally disposed of, but the duration of their session for the purpose of originally assessing railroad property, and all other persons, partnerships, companies, associations or corporations, which said State Board of Tax Commissioners is by law required to assess originally, shall not exceed twenty (20) days; for the disposition of appeals, the revision of assessments and the equalization of real estate during the years when real estate is required to be equalized, shall not exceed twenty (20) days, and during the years when real estate is not required to be equalized, shall not exceed fifteen (15) days. The session for the hearing of complaints and applications for the revision of assessments by the owners of railroad property and other persons, partnerships, companies, associations or corporations required by law to be assessed originally by the State Board of Tax Commissioners shall not exceed ten (10) days. The State Board of Tax Commissioners may also meet in special session, at any time, upon the call of the chairman or secretary of the board, and any business may be transacted by said board at such special meeting which is not expressly required by law to be transacted at a regular meeting held at a time prescribed in the law.

Sec. 2. All acts of the State Board of Tax Commissioners at any special meeting of said board heretofore held are hereby declared to be valid and legal, the same in all respects as if the law creating said board had expressly authorized special meetings to be held.

[As amended by Act February 27, 1901.]

Section 133. It shall be the duty of the said board to examine the abstracts of all the real and personal property assessed for taxation in the several counties of this State as returned to the Auditor of State, and to equalize the assessments as hereinafter provided; but said board shall not reduce the aggregate assessed valuation below the true cash value, as defined in this act.

[As amended by Act February 27, 1901.]

Section 134. For the purpose of properly equalizing the valuations of real and personal property, and railroad property within the State, it shall be the duty of the County Auditors on or before the 20th day of July of each year, upon the receipt of the assessment books, to make out and transmit to the Auditor of State an abstract of the assessment of property, showing the number, value and

Special
Sessions.

Acts legalized

Duty of Board
as to real
estate.

County Audi-
tor's abstract
to Auditor of
State.

Contents.

average value of each class or kind of enumerated property, as shown by the assessment, the value of each item of unenumerated property, and total value of personal property, the value of all land in each civil township without improvements, the value of all improvements thereon, and the value of such land with improvements, and, in like order, all city or town inlots and outlots, showing the value of such lots without improvements, the value of improvements, and the value of such lots with improvements, the length of the main track, or tracks, the length of the side track, or tracks, the number or descriptions, the value and average values of each separate item of railroad property. Such abstract shall be arranged in such manner as to show by civil townships the number of acres, value, and average value of improved lands, and in like manner the number of acres, value, and average value of unimproved lands, total number of acres, total value and average value per acre of all lands, the number and value and average value of improved town or city lots, the number, value and average value of unimproved town or city lots, the total number of lots, total value and average value of all lots, and the total value of all property, real and personal. Said abstract shall be made out on the blanks, which it shall be the duty of the Auditor of State to furnish the County Auditor for that purpose. The value to be given in said abstract shall be the assessed valuation, except in the case of railroad property, denominated railroad track and rolling stock, the value of which shall be given as returned by the railroad company to the County Auditors. The County Auditor shall at the same time and accompanying said abstract, furnish a detailed statement of the railroad property, denominated railroad track and rolling stock, reported by each road located in or through their counties. If there are any roads so located that have not made their report, as required by this act, the County Auditors shall report the facts, giving the name of such railroad, and in case of the failure on the part of any County Auditor to furnish the proper returns of the assessment of his county to the Auditor of State prior to or during the meeting of the State Board of Tax Commissioners in each year, said board may, by order, authorize the Auditor of State to equalize the assessment of such county when full returns have been received by him.

[As amended by Act February 27, 1901.]

Section 135. Said board, in equalizing the valuation of property as listed and assessed in the different counties, shall consider the following classes of property separately,

Classification of property to be considered by Board separately.

viz.: Railroad property, lands, town and city lots and personal property, and upon such consideration determine such rates of addition to, or deduction from the listed or assessed valuation of each of said classes of property in each county, or to or from the aggregate assessed value of each of said classes in the State, as may be deemed by the board to be equitable and just; such rates being in all cases even, and not fractional, and such rates as finally determined by said board shall not be combined.

[As amended by Act February 27, 1901.]

Section 136. Counties shall be equalized by adding to the aggregate value of the lands, town and city lots and personal property, in every county in which said board may believe the valuation to be too low, such rate per centum as will raise the same to its proper proportionate value, and by deducting from the aggregate assessed value thereof, in every county in which said board may believe the valuation to be too high, such per centum as will reduce the same to its proper value, as defined in this act.

SEC. 137. Said board shall also assess the railroad property, denominated in this act as "railroad track" and "rolling stock," at its true cash value, and said board is hereby given the power and authority, by committee or otherwise, to examine persons or papers. The amounts so determined and assessed shall be certified by the Auditor of State to the County Auditors of the proper counties. The County Auditor shall, in like manner, distribute the value so certified to him by the Auditor of State to the several townships, cities and towns in his county, entitled to a proportionate value of such railroad track and rolling stock; and said Auditor shall compute and extend taxes against such value the same as against other property in such townships, cities and towns.

When a railroad runs into or through two or more States, its value, for taxation purposes, in each, is fairly estimated by taking that part of the value of the entire road which is measured by the proportion of the length of the particular road in that State to that of the whole road. *Pittsburg, etc., Ry. Co. v. Backus*, 154 U. S. 421; *Cleveland, etc., Ry. Co. v. Backus*, 133 Ind. 513; *Pittsburg, etc., Ry. Co. v. Backus*, 133 Ind. 625.

Under the revenue laws of this State, the State Board of Tax Commissioners has exclusive authority to value and assess the railroad property denominated "railroad track" and "rolling stock." *Pfaff v. Terre Haute, etc., R. R. Co.*, 108 Ind. 144.

The right of way, with the improvements upon it, is to be valued and assessed as "railroad track." *Pfaff v. Terre Haute, etc., R. R. Co.*, 108 Ind. 144.

The phrase "right of way" is not limited to a strip of land of any definite width at all points on the line of a railroad, but includes lands and lots acquired for necessary side tracks and turnouts, and the improvements thereon in the way of coal sheds, freight houses, water tanks, repair shops, round houses and the like. *Pfaff v. Terre Haute, etc., R. R. Co.*, 108 Ind. 144.

Railroad property, how assessed.

An action will not lie to enjoin a town from the collection of taxes against a railroad company because of the failure of the County Auditor to apportion to such town its proper share of the taxable valuation of the property.

The fact that a railroad company paid taxes to the township upon its property located within the corporate limits of a town will not entitle it to an injunction to prevent the town from collecting taxes due it. *C. C. & St. L. Ry. Co. v. Town of Waynetown, 153 Ind. 550.*

Result, how
tabulated.

SEC. 138. When said Board shall have separately considered the several classes of property as hereinbefore required, the result shall be combined into one table and the same shall be examined, compared and perfected in such manner as said Board shall deem best to accomplish a just equalization of assessment throughout the State, preserving, however, the principle of separate rates for each class of property.

Rates certified
to Auditor of
State.

SEC. 139. When said Board shall have completed its assessments, and its equalization of assessments, for any year, it shall certify to the Auditor of State the rates finally determined by said Board to be added or deducted from the listed or assessed valuation of each class of property in the several counties, and also the amounts assessed by said Board, and it shall be the duty of said Auditor, under his seal of office, to report the action of the Board to the several County Auditors immediately after the adjournment of said Board.

The judgment of a State board empowered to fix a valuation for taxation can not be set aside by the testimony of witnesses that the valuation was other than that fixed by the board, where there is no evidence of fraud or of gross error in the system on which the valuations were made. *Pittsburgh, Cincinnati, Chicago & St. Louis Ry. v. Backus, 154 U. S. R. 421.*

Rates
extended.

SEC. 140. All rates for taxes provided for by law shall be computed and extended by each County Auditor on the Assessor's valuation of property, as equalized by the County Board of Review and State Board of Tax Commissioners, except as otherwise provided by law.

Report
of Board
published.

SEC. 141. A report of all the proceedings of said State Board of Tax Commissioners shall be published annually, in pamphlet form, and three thousand copies thereof printed, of which number the Auditor of State shall retain two hundred copies and the remainder shall be distributed by him to the several counties in the proportion usual in similar cases.

[As amended. Acts 1897, p. 141.]

County Audi-
tor may assess
omitted prop-
erty.

SEC. 142. Whenever the County Auditor shall discover or receive credible information, or if he shall have reason to believe that any real or personal property has, from any cause, been omitted in whole or in part, in the assessment of any year or number of years, from the assessment book

or from the tax duplicate, he shall proceed to correct the tax duplicate, and add such property thereto, with the proper valuation, and charge such property and the owner thereof with the proper amount of taxes thereon; to enable him to do which he is invested with all the powers of assessors under this act. But before making such correction or addition, if the person claiming to own such property, or occupying it or in possession thereof resides in the county, and is not present, he shall give such person notice in writing of his intention to add such property to the tax duplicate, describing it in general terms, and requiring such person to appear before him at his office at a specified time, within five days after giving such notice and to show cause, if any, why such property should not be added to the tax duplicate; and if the party so notified does not appear, or if he appears and fails to show any good and sufficient cause why such assessment shall not be made, the same shall be made, and the County Auditor shall, in all cases, file in his office a statement of the facts or evidence on which he made such correction; but, he shall in no case reduce the amount returned by the assessor without the written consent of the Auditor of State, given on the statement of facts submitted by the County Auditor. When the County Auditor shall discover credible information or have reason to believe that real or personal property has, from any cause, been omitted, in whole or in part, from assessment for taxation, or such credible information shall be furnished to such County Auditor it shall be the duty of such County Auditor to take the steps provided for by this section, to place such omitted property on the tax duplicate. If such County Auditor shall fail or refuse, on the discovery by himself, or on credible information being furnished him by another person, that property has been omitted from taxation, the State on the relation of any State officer, or of the State Board of Tax Commissioners, or of any tax-payer of the County in which such failure or refusal occurs, shall have the right to proceed against such County Auditor in any Court of competent jurisdiction by mandamus, to compel such County Auditor to comply with the provisions of this section. In the trial of such a suit, the question of what constitutes credible information, as mentioned in this act, shall be a question of fact to be determined by the court or jury trying the case, and either party shall have the right to demand a jury to try such question of fact. If judgment shall be rendered to the effect that credible information has been discovered by,

Failure of
Auditor,
mandamus.

or furnished to such County Auditor, or that he has reason to believe that property has been omitted from taxation, it shall then be the duty of such County Auditor to forthwith place such omitted property on the tax duplicate in accordance with the provisions of this act, and such County Auditor shall be liable for all costs of such mandamus suit and for a reasonable attorney's fee for relator's attorney which shall be taxed as a part of the costs of such suit in all cases, where judgment is rendered against him: *Provided, however*, That in case proceedings are instituted hereunder on the relation of any private citizen, such relator shall give bond to the satisfaction of the court to pay all costs which may be recovered against them.

Penalty.

SEC. 2. Any County Auditor who shall be guilty of violating any of the provisions of section one of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined for each violation in any sum not less than one hundred dollars, nor more than five thousand dollars, to which may be added imprisonment in the county jail for a period not to exceed one year.

County Auditors, in assessing omitted property under this section, have powers of Assessors, but are not entitled to any extra compensation for such services, nor can they contract with county boards for pay for such services. *Vandercrook v. Williams*, 106 Ind. 345; *Williams v. Segur*, 106 Ind. 368.

County Auditors can not increase the valuation of property as filed by Assessors, although such property is purposely undervalued. *Williams v. Segur*, 106 Ind. 368; *Floer v. Sherwood*, 128 Ind. 493; *Board v. Senn*, 117 Ind. 410; *Woll v. Thomas*, 1 App. 222; *DuBois v. Board*, 4 App. 138; *Douch v. Board*, 4 App. 374.

County Auditors can only assess omitted property when there is specific omitted property capable of identification. *Floer v. Sherwood*, 128 Ind. 495.

Listing property under the wrong item in the schedule of assessment will not authorize the assessment of such property as omitted property. *Woll v. Thomas*, 1 App. 222.

All presumptions are to be indulged in favor of the correctness of the proceedings of the Auditor in assessing omitted property, and the error, if any, must be pointed out by the complaining party. *Buck et al., Trustees, v. Miller, Treasurer, etc.*, 147 Ind. 586.

A County Auditor, in assessing property for taxation as omitted property, must describe the property so assessed, and a description as "money loaned" and "credits" is not sufficient. *Floer v. Sheridan*, 137 Ind. 28.

If a taxpayer is notified to appear before the County Auditor to show cause why omitted property should not be assessed for taxation, such taxpayer may have his bona fide indebtedness deducted from credits due him, when such credits are the property sought to be assessed as such omitted property. *Floer v. Sheridan*, 137 Ind. 28.

A County Auditor, after the taking effect of the tax law of 1891, had power to assess property for taxation that had been omitted and not assessed for years prior to the taking effect of such act. *Reynolds v. Bowen*, 138 Ind. 434; *Salnt v. Welsh*, 141 Ind. 382.

County Auditors, in making assessments of omitted property for taxation, may act upon any information, written or oral, or even upon their own belief. *Reynolds v. Bowen*, 138 Ind. 434.

The personal representative of a deceased property owner is the proper person upon whom notice should be served of an intention to

assess for taxation property of such deceased property owner that has been omitted from assessment. *Reynolds v. Bowen*, 138 Ind. 434.

Notice given by a County Auditor of an intention to assess for taxation property that has been omitted from assessment, need only describe the property in general terms. *Reynolds v. Bowen*, 138 Ind. 434.

The clerk of a city is the proper person to assess for taxation property that has been omitted from assessment for municipal purposes, such clerk performing the duties in that respect that are conferred by law upon County Auditors. *City of Delphi v. Bowen*, 138 Ind. 255.

The assessing officer is not required to go outside his own county to give notice to any one of his intention to assess omitted property, under Section 8569, R. S. 1894, requiring County Auditors to give notice of their intention to assess omitted property of any resident of the county. *Buck et al., Trustees, v. Miller, Treasurer, etc.*, 147 Ind. 586.

1. The County Auditor is so far interested by reason of his duties to add omitted property to the tax duplicate under Section 8569, R. S. 1894 (Section 142, above), that he can maintain an action on behalf of his county to set aside the final settlement of a decedent's estate within three years and subject it to the payment of taxes on property fraudulently concealed in his lifetime, under Section 2403, R. S. 1881.

2. Tax laws are to be liberally interpreted in aid of the taxing power.

3. Neither a taxpayer nor his estate after his death can claim any vested rights in the fruits of his fraudulent or careless omission to list his property for taxation.

4. Taxes are not such claims as the law either requires or intends shall be filed against a decedent's estate, but it is the administrator's duty to ascertain their amount and pay them.

5. That a claim for accrued taxes remained unpaid at the time an estate was finally settled is such illegality as will, on proper petition within the prescribed time, result in setting aside the settlement.

6. The State can be sued only when it has given its consent by law, and there is no law by which it can be summoned to attend the final settlement of a decedent's estate and compelled to present objections at the time or to be concluded by the settlement.

(*Graham v. Russell, Auditor*, 152 Ind. 186.)

This section authorizes the County Auditor to make an investigation to determine whether taxable property has been secreted and not returned for taxation, and requires him to institute proceedings in relation thereto whenever he shall receive information thereof. *City of Richmond et al. v. Dickinson*, Supreme Court under date of October 23, 1900.

Section 142 of the tax statutes of 1891 empowers the County Auditor, upon notice to taxpayer, to add for any year or number of years omitted property to the tax duplicate with the proper valuation thereon, and to charge such property to the owner thereof with the taxes thereon. The powers granted to the County Auditor under the section mentioned are not limited alone to that official, but the tax law also extends such powers to the County Treasurer and the County Assessor and Boards of Review.

The provisions of the law to which we have referred, granting the power mentioned to the County Auditor and other officials, are intended to afford an instrumentality or agency through which the State, as far as possible, can prevent property subject to taxation from escaping the burdens or charge imposed by the law. *Graham v. Russell, Auditor*, 152 Ind. 191.

The placing of omitted property upon the tax duplicate by the County Auditor, without the notice required, is no ground for enjoining the collection of the taxes where none of the substantial rights of the taxpayer is shown to be prejudiced. *Miller v. Vollmer, Treasurer et al.*, 153 Ind. 30.

Where the County Auditor was not permitted to make an inspection of books relating to an estate, was compelled to arrive at the value of the estate for taxation by, in a measure arbitrary deductions from the facts of record and recognized rules of business, although he had no

positive evidence before him that the amounts stated by him were untidely accurate, held that the assessment made by the Auditor will be presumed to be correct and will not be overthrown in the absence of the preponderance of the evidence to the contrary. Gallup, Executor, v. Schmidt, Treasurer, 154 Ind. 106.

It is a misnomer to call an assessment for omitted property a delinquent tax. It was not a tax at all until after the assessment and the extension were made. Before that time, the claim existed only in the right to tax; and not until modded by the form of law into a fixed charge was it susceptible of demand and exact payment. The assessment may be made for any year, or any number of years, but whenever made it is to be placed and extended upon the current duplicates for collection as are other taxes. Gallup, Executor, v. Schmidt, Treasurer, 154 Ind. 277.

The official residence of an executor, so far as the taxation and administration of the assets of an estate are concerned, is in the county of his appointment, and a notice to appear before the County Auditor and show cause why property of the estate should not be added to the tax duplicate, under Section 142 of the tax law is not void for the reason that the executor resided in another State. Gallup, Executor, v. Schmidt, Treasurer, 154 Ind. 106.

An executor residing in another State, who was present and served with notice of intention of County Auditor to add to the tax duplicate omitted property belonging to the estate, under the provisions of Section 142 of the tax law, can not assail the constitutionality of said section on the ground that it attempts to provide for the assessment and taxation of omitted property owned by nonresidents of the State, without affording such nonresidents notice on day in court. Gallup, Executor, v. Schmidt, Treasurer, 154 Ind. 201.

Section 142 of the tax law providing notice to property owners by County Auditor of intention to add omitted property to tax duplicate is not unconstitutional for failure to provide notice to nonresidents, since such assessment is not final and the nonresident is not deprived of his day in court. Gallup, Executor, v. Schmidt, Treasurer, 154 Ind. 202.

When any one seeks the aid of a court of equity to enjoin the assessment of property for taxation or the collection of taxes, he can not obtain relief on the ground of want or insufficiency of notice, or other informality or irregularities. If the property is taxable, the want of notice or the insufficiency thereof, or any other irregularity or informality, does not entitle the owner thereof to an injunction. Crowder v. Riggs, Auditor, 153 Ind. 161.

An injunction will not lie to restrain the County Auditor from placing upon the tax duplicate property alleged to have been omitted from taxation for certain years if taxable property belonging to plaintiff was omitted from the tax duplicate in any of the years mentioned. Crowder v. Riggs, Auditor, 153 Ind. 158.

The State is not required to file, for payment, its claim for taxes against a decedent's estate. Graham v. Russell, Auditor, 152 Ind. 186.

Making of tax
duplicates.

SEC. 143. The Auditor of each county shall, between the first Monday in July and the last day of December, make out a duplicate list of taxes assessed in said county according to the forms which shall be furnished by the Auditor of State; and, in so doing, he shall enter in separate columns:

First. All lands in each civil township, with the names of the owners in alphabetical order, the value of the land without improvements, and opposite to this value of improvements thereon.

Secondly. In like order he shall enter all city and town in-lots and out-lots situated in such township, with the improvements thereon.

Thirdly. In its place, all corporation stock, except stocks in banks, which shall be assessed and taxed in the town or city where the bank is located, as in this act elsewhere provided.

Fourthly. All other personal property subject to taxation, and which shall be charged, together with the poll-tax in the civil township where the owner resides, but when personal property is required to be listed in a township different from that of the owner's residence, it shall be taxed in the township where listed.

Fifthly. He shall number each original township in regular progression as the same shall stand entered on his duplicate, and the same township shall retain the same number from year to year; and

Sixthly. He shall number each name in each township in regular progression. The County Auditor, in making out such duplicate, shall be careful to enter thereon, all the lands previously entered for taxation, with the valuation thereof, as heretofore assessed, and all such lands as by mistake or neglect or for any other cause, shall have been omitted to be entered; also, all such lands as shall be found to have become subject to taxation since the last assessment, with such valuation as shall be affixed thereto by the Assessor; and he shall enter all personal property according to the list of the last assessment made in conformity to this act, giving a pertinent description of all property thus entered on his duplicate, and duly enter all transfers of land made since the last assessment, and carry into effect all alterations which shall be made in the Assessor's list by the Board of Review.

The copy of the tax duplicate retained by the Auditor is an original record, and is admissible in evidence as such. Standard Oil Co. v. Bretz, 98 Ind. 231.

SEC. 144. The County Auditor shall estimate in dollars and cents, rejecting fractions of a cent, and set down on such duplicate in one column the State, county, school, township, road, and all other taxes chargeable on the valuation of property contained in such duplicate, including also the poll-tax, for State, county and all other purposes, and he shall set down in a separate column the amount of taxes on all property returned delinquent, specifying the years and the amount remaining unpaid, with the proper penalty on the same added, and shall carry out the aggregate amount in a column of totals.

Estimating
taxes.

Estimating
taxes in
installments.

SEC. 145. He shall set down the amount of taxes charged against each taxpayer in two separate columns; the first installment, embracing all road taxes, and one-half of all other taxes, shall be placed in the first column; and the second installment, embracing the other half, shall be placed in the second column, with a sufficient blank space at the right of each column to write in ink the word "paid," and when payment of either half of such taxes shall be made, the Treasurer shall write in a blank space opposite the word "paid," and shall execute a receipt therefor in the usual form now used, except that it shall state which installment the payment is entitled to apply to, and if for the last installment, shall state upon its face, "in full."

Adding dupli-
cate and
apportioning
taxes.

SEC. 146. He shall add on each page of such duplicate the several columns containing the valuation of real and personal estate, taxes, charges, and the number of acres, carrying the same forward from page to page to the close of each township, and at the end of the duplicate he shall recapitulate the several townships and apportion the amount of taxes levied on the property in each township, and set down in separate columns the amount of State, county, school, township, road and all other taxes levied, and add the aggregates of the above for the whole county.

Correcting
errors in
duplicates.

SEC. 147. He shall, from time to time, correct all errors which he may discover in his duplicate, either in the name of the person charged with taxes, the description of the property, or the amount of the tax charged, and shall add, from time to time, any corrections or additional assessments made on the Assessor's books by the County Assessor, and when such correction is made after the duplicate shall have been delivered to the Treasurer for collection, the Auditor shall give a certificate of such correction to the Treasurer, who shall make the like correction on his duplicate, and keep such certificate as his voucher on settlement with the Auditor.

Irregularities in making a tax duplicate do not render the same void.
Board v. McCarty, 27 Ind. 475.

Duplicate to
Treasurer.

SEC. 148. He shall cause a copy of such duplicate to be delivered to the Treasurer of his county, on or before the last day of December in each year, and he shall also make out and cause to be transmitted to the Auditor of State, on or before the first day of January in each year, a complete abstract of all the property listed in each

township, the valuation thereof, the number of polls, the amount of each kind of tax, and the aggregate thereof in the county, and certify the same, as also the rate of each kind of tax assessed.

Abstract to
Auditor of
State.

Failure to deliver a copy of the duplicate to the Treasurer within the time fixed by law, or irregularities in making the same, do not render it void. Board v. McCarty, 27 Ind. 475.

Tax duplicates legal on their face justify Treasurers in acting thereunder. Noland v. Busby, 28 Ind. 154; Adams v. Davis, 109 Ind. 10.

Copies of the tax duplicate in the office of County Auditors and Treasurers are both original records, and are admissible in evidence as such. Standard Oil Co. v. Bretz, 98 Ind. 231.

SEC. 149. The County Auditor shall keep a transfer book, arranged by townships, cities and towns, in which he shall enter a description for the purpose of taxation of all lands that have been conveyed by deed or partition with the date of the conveyance and names of the parties, and he shall indorse on such deed or instrument of conveyance the words, "duly entered for taxation," or that it is "not taxable," or "has already been listed for taxation," and for every such transfer he shall receive from the party recording such instrument a fee of ten cents for each parcel of ground or lot so transferred. He shall take care that all descriptions for the purpose of taxation are correct, and that the owners' names are properly transcribed. Where the property is already in the name of the right owner, and needs no transfer, he shall not receive the fee of ten cents.

Transfer book.

SEC. 150. As soon as the County Treasurer receives such duplicate, he shall forthwith cause notices to be posted up at the Court House door, and also cause the same to be published in one weekly newspaper having general circulation in his county, if any there be, for three weeks successively, stating in such notice, the amount of tax charged for State, county, school, road or other purposes, on each one hundred dollars valuation of the taxable property, also the tax on each poll for State, county, or other purposes.

Treasurer's
notice to tax-
payers.

Failure to give notice as required by this section will not affect the collection of taxes. Noland v. Busby, 28 Ind. 154.

SEC. 151. Such Treasurer shall attend at his office at Treasurer to the seat of justice, in person or by deputy, for the purpose of attending at collecting the taxes charged on said duplicate, until the third Monday of April next thereafter. (See Section 152.)

[Acts 1897, p. 162. In force on publication of session laws of 1894.]

Taxes to be
paid by first
Monday in
May and
November.

Road taxes.

Penalty for
delinquency.

SEC. 152. Any person or taxpayer charged with taxes on the tax duplicate in the hands of a County Treasurer may pay the full amount of such taxes on or before the first Monday in May, or may, at his option, pay the first installment on or before such first Monday, and the remaining installments on or before the first Monday of November following: *Provided, however,* That all road taxes charged shall be included in the first installment: *And, provided, further,* That in all cases where the first installment shall not be paid on or before the first Monday in May, the whole amount unpaid shall become due, and be returned delinquent, and collected as provided by law, and there shall be a penalty added of ten per cent. upon the amount of any installment not paid when due, which the persons or property assessed shall pay, together with cost of collection, and, if such taxes remain delinquent at the succeeding first Monday in November, there shall be a penalty of six per centum added to all such taxes that become delinquent at the preceding May and November settlements, and a penalty of ten per centum only shall be added to the current delinquency occurring on the first Monday in November.

If the second installment of taxes is not paid when due, the penalty will attach thereto, although the first installment was paid before becoming delinquent. *Abbott v. Edgerton*, 53 Ind. 196.

Penalties assessed for non-payment of taxes belong to each fund on which the penalty attaches, and become a part thereof. *Board v. State ex rel.*, 119 Ind. 473.

Penalties are only to be added to the current delinquency, and not for each year the tax remains unpaid. Compound penalties or interest is not contemplated. *Roseberry v. Huff*, 27 Ind. 12.

If a taxpayer fails to pay the April installment of his taxes, his entire amount of taxes becomes delinquent, to which is added a penalty of ten per centum; if such taxes are not paid, but are still delinquent in November, an additional burden of six per centum is added; if the April installment is paid and the November installment is delinquent, but ten per centum can be added, and no other additions can be made, however long the delinquency continues. *Evansville, etc., R. R. Co. v. West*, 139 Ind. 254.

The placing of ditch assessments upon the tax duplicate, to be collected as other taxes, shows the clearest intention that they are to become subject to the penalties fixed by statute for delinquencies for the nonpayment of taxes, and nothing more. * * * The assessments thus made are nothing more than an additional tax levied upon the lands of appellees for a specific purpose and must be treated as such. *Marrow v. Geeting*, 23 App. 499.

The per centum added to the amount of taxes against any taxpayer after a certain time for nonpayment is a penalty and is so named in the statute, and is not for the purpose of providing fees for county treasuries. *Saint v. Board of Commissioners Henry County*, 19th App. 288.

In no instance is a penalty assessable, except in default of payment of taxes, when due, under Section 152 of the tax law, that have been legally assessed and placed upon the tax duplicate in the hands of a County Treasurer. A penalty can not be imposed until a party is in default in some legal duty. A penalty for the nonpayment of a tax can not be imposed until the person has an opportunity to pay it and fails to do so. *Gallup Ex. v. Schmidt, Treas.*, 154 Ind. 217.

SEC. 153. After the third Monday of April the Treasurer shall cause a list to be made of the delinquents, with the amount due from each, and with a separate column headed "return," which list shall be certified to be correct by the County Auditor, and shall then proceed with such list, which, when so certified, shall be sufficient authority, and have the same force and effect as an execution, to call, either in person or by deputy, upon every person named in the duplicate who is delinquent, and who resides in the county, and he shall make a demand for the amount of such delinquent taxes, and the penalty thereon, of each resident delinquent, and if the taxes and penalty are not paid on such demand he shall proceed immediately to levy upon sufficient personal property of such delinquent to pay such taxes, penalty and the costs of sale, and to sell the same in the manner and at the place hereinafter provided. In case such delinquent tax and penalty is paid upon demand, such Treasurer shall charge and receive from such delinquent, in addition to the taxes and penalty, the sum of twenty-five cents, and where a levy is made he shall charge and receive, in addition to his other costs, the sum of fifty cents for such demand. When he can find no personal property of such delinquent within the county upon which to levy, after diligent search therefor, he shall make, opposite the name of said person on said list in the column marked "return," a special return, setting forth the fact that he had made diligent search in the county for personal property of such delinquent, and was unable to find any upon which to levy for the payment of the taxes due thereon, which return shall be *prima facie* evidence of the facts therein recited; and the Treasurer shall, if he have reason to believe that such delinquent have money, effects, or other property in his possession or on deposit that can be reached by any remedy known to the law, make known such facts to the Prosecuting Attorney who

List of
delinquent
taxes, levy
and sale.

shall cause such proceedings to be brought as will secure the payment of such delinquency and for his services in so doing shall receive ten per cent. of such money so collected and a docket fee of ten dollars to be taxed as costs in such action and paid out of moneys so collected.

Personal property can not be levied on until the tax becomes delinquent, except where taxpayers are leaving the county without paying their taxes. *Velt v. Graff*, 37 Ind. 253; *Gregory v. Wilson*, 52 Ind. 233.

Tax duplicates legal on their face justify treasurers in levying on personal property. *Noland v. Busby*, 28 Ind. 134; *Adams v. Davis*, 109 Ind. 10.

Personal property in the hands of an executor may be levied on for the collection of delinquent taxes. *Ring v. Ewing*, 47 Ind. 246.

Personal property sold by the taxpayer may be levied on to collect his delinquent taxes, although he may have other personal property. *Mesker v. Koch*, 76 Ind. 68.

Personal property may be levied on at any time to collect delinquent taxes. *Adams v. Davis*, 109 Ind. 10.

Replevin will not lie to recover property levied on for delinquent taxes. *Adams v. Davis*, 109 Ind. 10; *Maple v. Vestal*, 114 Ind. 325.

Where proceedings are commenced by a Prosecuting Attorney to foreclose a tax lien on lands that have been offered for sale three years in succession for the nonpayment of taxes, a person who holds a lien upon such lands by virtue of having purchased the same at a tax sale will not be affected by such proceedings unless he is a party thereto. *McCann v. Jeon*, 134 Ind. 518.

If the proceedings by a Prosecuting Attorney to foreclose a lien for taxes are regular and the court obtains jurisdiction over the owner of the property, the purchaser of the property under such proceedings will obtain a good title to the same, and he may have his title quieted as against a person who holds a lien on the property on account of such person having purchased the same at a tax sale, by paying such lien or having a decree entered establishing the same. *McCann v. Jeon*, 134 Ind. 518.

Where a decree is obtained for the sale of lands for nonpayment of taxes, the purchaser of such lands, other than the owner thereof, under such proceedings, will hold the lands free of any lien for such taxes, although the purchase money paid is not sufficient to satisfy taxes in full, but the owner of the property sold will remain liable for any unpaid balance of such taxes, and any of his property will be liable therefor, as well as the property sold, if he should afterwards again acquire title thereto. *Beard v. Allen*, 141 Ind. 243.

auditor not to
credit Treas-
urer for uncol-
lected delin-
quencies.

SEC. 154. County Auditors shall not be authorized to credit the Treasurer with any uncollected delinquency for which he claims credit, unless such Treasurer shall show by proper returns as above provided, verified by his oath or affirmation, that he has diligently sought for and has been unable to find any personal property from which to collect such taxes, or that having made a levy, he was enjoined or otherwise prevented from making sale or collection by a court of competent jurisdiction; and in all cases where he has failed to make demand upon residents who are delinquent or to levy and sell when personal property can be found in the county out of which to make the tax,

he shall be liable on his official bond, for such uncollected delinquency and ten per cent. damages thereon.

SEC. 155. When he levies upon personal property, the delinquent may retain the possession of such personal property for sixty days, and until the day of sale, by giving such Treasurer a joint and several delivery bond, payable to the State of Indiana, with good freehold surety, to be approved by such Treasurer in a penalty at least double the amount of the taxes and cost, conditioned that such personal property will be delivered at the door of the court house of the county, or such other place as the Treasurer may designate, and at the time named therein to be sold by such Treasurer at public auction, or that such obligors will then and there pay such Treasurer the amount of said delinquent taxes, penalty and cost. If such bond be not given he shall cause the property to be removed from the place the same is levied on, and to be stored in some secure place in his own name as Treasurer.

If a bond is given for the delivery of property on the day of sale, and the sale is prevented by injunction which is afterwards dissolved, a demand may then be made for the property, and if refused a suit will lie on the bond. *Tay v. Shanks*, 56 Ind. 554.

When a delivery bond taken by a County Treasurer for the delivery of property levied on for the nonpayment of taxes requires the property to be delivered on a specified day, no demand for delivery need be made before suit is commenced on the bond. *Midland, etc., Ry. Co. v. State ex rel.*, 11 Ind. App. 433.

In an action on a delivery bond executed to a County Treasurer to secure the return of property levied on for the nonpayment of taxes, it is not necessary that the complaint should allege in detail all the facts necessary to show a valid levy of such taxes, but if the complaint alleges in general terms such facts as show that any portion of the taxes sought to be collected were legally assessed, it will be sufficient in that respect. *Midland, etc., Ry. Co. v. State ex rel.*, 11 Ind. App. 433.

SEC. 156. Such bond may be substantially in the following form, the names, description, amount and place of sale being changed to suit each particular case:

We, Richard Roe, as principal, and Jonathan Jennings, as surety, are jointly and severally bound unto the State of Indiana in the penal sum of fifty dollars, on the following condition:

WHEREAS, Peter Clark, as Treasurer of Clark County, has this day levied upon one bay horse of the value of fifty dollars, to satisfy the taxes, penalty and cost for the year 1890, due from said Richard Roe. Now, if the said Richard Roe shall deliver said horse to said Clark at 10 o'clock A. M. of the 20th day of June, 1891, at the door of the court house in Jeffersonville, to be sold to pay said taxes,

penalty and cost, or will then and there pay to said Clark the full amount of said taxes, penalty and cost, then this bond shall be void, else in full force.

Witness our hands and seals, May 4, 1891.

[SEAL.]

RICHARD ROE.

[SEAL.]

JONATHAN JENNINGS.

Approved by me May 4, 1891.

PETER CLARK,

Treasurer of Clark County.

Notice of sale. SEC. 157. The Treasurer shall give public notice of the time and place of sale, and of the property to be sold, at least ten days previous to the day of sale, by advertisement to be posted up in at least three public places in the township where such sale shall be made.

Manner of sale. SEC. 158. Such sale shall be by public auction at the court house door, or place designated by the Treasurer, and no more property shall be sold than sufficient to pay the tax, cost and charges. The Treasurer, if he receives no bid to the amount of the tax penalty and cost due, may, in his discretion, if he thinks the property is ample surety for the tax, purchase the same in behalf of the State of Indiana, and if the same is not redeemed within the period prescribed by law, he shall then re-expose the same for sale to the highest bidder for cash, after giving the same notice as is provided hereinbefore, and if there is any surplus after paying this tax, penalty and cost said surplus shall be returned to the owner of said property.

Purchasers of property at tax sales assume all risks as to the title of the property. *Logansport v. Humphrey*, 84 Ind. 467.

Persons in possession of property, but who are under no obligation to pay the taxes, may purchase the same at tax sale. *Hadley v. Musselman*, 104 Ind. 459.

Property may be sold on Christmas day for taxes. *Hadley v. Musselman*, 104 Ind. 459.

Levy and sale to be made at any time. SEC. 159. Nothing contained in the preceding section shall prevent the Treasurer from collecting delinquent taxes at any time by levy and sale of personal property. Whenever he has reason to believe that any person charged with tax is about to remove from the county without payment of his tax, he may at any time levy such tax and charges by distraint and sale of personal property, and it is hereby made his duty to levy and collect all delinquent taxes, whether they be charged upon a current year's duplicate or otherwise, as well before as after his return and settlement for a current year's taxes.

Personal property may be sold for taxes at any time. *Adams v. Davis*, 109 Ind. 10.

SEC. 160. For levying and making such sale of personal property to pay delinquent taxes, in addition to the fee for the demand upon the resident delinquent, the Treasurer shall be allowed the same fees and charges as are allowed by law to constables for making levy and sale of personal property on execution and expenses for taking care of property levied. *Fee for levy and sale.*

SEC. 161. The County Treasurer shall demand payment of all taxes assessed on incorporated companies, except national banks and building and loan-fund associations, from the president or other proper officer of such companies, in the same manner as in other cases, and if not paid shall proceed in the collection and payment thereof and penalties thereon in the same manner as in other cases, and shall be liable to the same penalties for the non-payment of moneys collected by him. *Demand and collection from corporations.*

SEC. 162. If such County Treasurer shall not be able to collect any tax assessed upon any incorporated company he shall return the same to the County Auditor and be allowed therefor as in other cases, and the County Auditor shall certify the same with the delinquent taxes to the Auditor of State. *Unable to collect from corporation, return.*

SEC. 163. If any such company shall not have personal or real estate out of which to make such delinquent taxes, the Auditor of State may, if he deem it expedient, cause to be filed in a proper Court, a bill against such company for the discovery and sequestration of its property; which Court shall order such part of the property of such company to be sequestered as they shall deem necessary for the purpose of satisfying the taxes, penalties and interest in arrears, with the cost of prosecution, and they may also, at their discretion, enjoin such company and the officers thereof from any further proceeding under their act of incorporation, and may order and direct such other proceedings as they shall deem necessary to compel the payment of such taxes, penalties, interest and costs; or such tax, penalties or interest may be recovered with cost from such delinquent company by action in the name of the State, or on the relation of the Auditor of State, in the Circuit Court of the proper county. *Bill of discovery and sequestration.*

SEC. 164. Whenever any person who is delinquent for the non-payment of taxes shall have removed from the county in which he was assessed, to any other county in this State, it shall be the duty of the said Treasurer, in making such return, to write opposite the name of such person the words, "removed from this county," also the *Return of Treasurer when delinquent has removed.*

Auditor's statement of delinquent tax forwarded to Auditor where delinquent resides.

Duty of Auditor on receiving statement.

Treasurer to collect tax from delinquent.

Fees of Auditor and Treasurer.

Administrator, executor, etc., to pay tax.

name of the county to which such person shall have removed, if known to such Treasurer, if the same can be discovered upon inquiry.

SEC. 165. It shall be the duty of the County Auditor, whenever he shall be advised by the return of the Treasurer, or by any other means, that any delinquent taxpayer has removed, as aforesaid, if such Auditor shall be satisfied that there is a reasonable prospect of collecting said taxes, to make out a list of taxes owing by such person, specifying therein what is State and what are county, school and road taxes, which list shall be certified to be correct, under the hand and seal of such Auditor, and the said Auditor shall transmit the said list to the Auditor of the county to which such person shall have removed; and the said County Auditor, for making out and transmitting the said statement, shall be entitled to the sum of fifty cents.

SEC. 166. The County Auditor, to whom such list shall be sent, shall immediately enter the same on his tax duplicate, and charge the Treasurer of his county with the amount and instruct him to collect the same.

SEC. 167. The said County Treasurer of the county to which such person has removed shall proceed to collect the said taxes, interest, damages and fees, and, in so doing, he shall be governed by the provisions of this act and the laws regulating the duties of County Treasurers; and, when the same is collected, the County Treasurer shall pay the same into the State Treasury. The county, school and road tax and fees shall be entered to the credit of the county entitled to the same, and the Treasurer of State shall pay the same over to the proper County Treasurer.

SEC. 168. The Auditor and Treasurer of the county to which such statement shall have been sent, shall be allowed the same fees as they are now allowed or may hereafter be allowed for similar services.

[Acts 1897, p. 226. Approved March 8, 1897.]

SEC. 169. It shall be the duty of every administrator, executor, guardian, receiver, trustee, assignee for the benefit of creditors, assignee in bankruptcy, or person, or corporation, having the property of any decedent, infant, idiot, insane or other ward, or the estate or property of any insolvent or bankrupt person, firm, association, joint-stock company, or corporation in charge, to pay the taxes due upon the property of such decedent, ward, cestui que trust, or insolvent or bankrupt person, partnership, association, joint-stock company, or corporation, and, in case of his neg-

lecting to pay any installment of taxes when due, when there is money enough on hand to pay the same, the County Treasurer shall present to the Circuit or other proper court of the county, or in case such receiver, trustee, assignee or other officer, be acting under appointment from a United States court, to the proper court of the district, a brief statement in writing, signed by him as such County Treasurer, setting forth the fact and amount of such delinquency, and such court shall at once issue an order directed to such delinquent commanding him to show cause within five days thereafter why such taxes and penalty and costs should not be paid, and upon his failing to show good and sufficient cause for such nonpayment, the court shall order him to pay such taxes out of the assets in his hands belonging to the estate of such said decedent, ward, insolvent or bankrupt person, partnership, association, joint-stock company, or corporation; and such delinquent shall not be entitled to any credit in any settlement of such trust for the penalty, interest, and costs occasioned by such delinquency, or by the order to show cause, but the same shall be a personal charge against him and he shall be liable on his official bond for such penalty, interest, and costs.

The private property of fiduciaries can not be taken to satisfy the taxes assessed against them in their trust capacities. *Touzey v. Bell*, 23 Ind. 423.

Taxes accruing before the death of a person should be paid by his administrator. *Henderson v. Whitinger*, 56 Ind. 131.

In an action to recover taxes from a fiduciary by reason of the assessment of omitted property, the facts stated must show a legal assessment. *Volger v. Volger*, 78 Ind. 353.

Where a Treasurer files a statement under this section of the taxes owing by a fiduciary, such statement may be tested by a demurrer. *Lang v. Clapp*, 103 Ind. 17.

If a testator directs that a sum of money shall be invested and the income thereof shall be collected and paid over to a designated person during the life of such person, and on the death of such person the principal sum to be distributed as a part of the estate of such testator, the taxes accruing on such principal sum during the life of such legatee should be paid out of the estate of such testator, and not from the income of the money invested. *Wilson v. White*, 133 Ind. 614.

Guardians of infants, insane persons and idiots should pay taxes on the property of their wards out of the money of the ward in their hands,

and if they have no money of the ward, they may sell property to obtain the same. *Ristine v. Johnson*, 143 Ind. 44.

Under the above section (Section 8587, R. S. 1894) it is made the duty of every administrator, executor, trustee, etc., to pay the taxes on such estates out of the assets of the estate. *Wilson v. White*, 133 Ind. 614.

Ignorance of the executrix of an estate that her testator had failed to list and return all his property for taxation will not defeat the setting aside of the final settlement report in order to subject the estate to the payment of taxes for which decedent was liable. *Graham v. Russell*, Aud., 152 Ind. 194.

The State is not required to file, for payment, its claim for taxes against a decedent's estate. *Graham v. Russell*, Auditor, 152 Ind. 186.

The provision of Section 169 of the tax law, requiring the County Treasurer to report to the court the delinquency of an executor or administrator in the payment of taxes due from the estate is imperative, but, in so far as the statute prescribes the time, it is directory only. *Gallop, Ex. v. Schmidt*, Treas., 268-267.

The funds of an insolvent mutual benefit assessment society in the hands of a receiver in this State are subject to taxation in the county where they are kept on deposit by such receiver, although the funds had been collected in other States in which the company also did business, and turned over to the Indiana receiver by order of their respective courts, and were to be distributed to claimants, many of whom were nonresidents. *Schmidt, Treas. et al. v. Failey*, 148 Ind. 150.

When executor, administrator, etc., advances money paying taxes.

SEC. 170. Every executor, administrator, guardian, trustee, receiver or person having the property of another in charge as aforesaid, who shall be put to any personal expense in paying the taxes of the estate of such decedent, ward or other person, by advancing the money therefor, shall be allowed the amount of the same, with legal interest, up to the time that he is reimbursed from the funds of such estate, and such advancement shall be deemed in all courts a just charge against the estate of the person or persons for whose benefit the same was advanced.

Treasurer may sell estate of decedent, ward, etc.

SEC. 171. Nothing herein contained shall prevent the County Treasurer from levying upon and selling the property of the estate of any decedent or any ward or person whose property is held in trust by another for the payment of any delinquent taxes in the same manner as other property is sold to pay delinquent taxes and the remedy given to the County Treasurers by the provisions of this act shall

be regarded as only cumulative, but every person holding property, either as executor, administrator, guardian, or in any other representative or fiduciary capacity, who shall neglect or refuse to pay the taxes listed and due thereon, shall be liable in an action to the heirs of such decedent, or to such ward *cestui que trust*, for any damages sustained by such neglect or refusal.

Personal property of a decedent in the hands of an executor may be sold for delinquent taxes. *Ring v. Ewing*, 47 Ind. 246.

SEC. 172. The lien of the State for all taxes for State, county, school, road or township purposes, shall attach on all real estate, on the first day of April, annually, and such lien shall be perpetual for all taxes due from the owner thereof, which have heretofore accrued or shall hereafter accrue, with the interest and penalties in each case until payment; which lien shall in nowise be affected or destroyed by any sale or transfer of any such real estate.

All taxes accruing against the owner of lands during such ownership becomes a lien on such lands. *Bodertha v. Spencer*, 40 Ind. 353; *Isaacs v. Decker*, 41 Ind. 410; *Rinard v. Nurdyke*, 76 Ind. 130; *Peckham v. Millikan*, 99 Ind. 332.

The lien for taxes is superior to a lien given by the owner of the land for purchase money. *Peckham v. Millikan*, 99 Ind. 352.

Taxes accruing on the individual property of the husband or wife are not a lien on lands held by them as tenants by entirety. *Morrison v. Seybold*, 92 Ind. 298.

Liens for taxes are not effected by omission of the property from the tax duplicate; the lien continues until the taxes are paid. *Adams v. Davis*, 169 Ind. 10.

Purchasers of land at tax sales take the land subject to all liens in favor of the State for taxes. *State ex rel. v. Jones*, 95 Ind. 175; *Stockwell v. State ex rel.*, 101 Ind. 1; *Justice v. Logansport*, 101 Ind. 326.

When property sold for taxes is not equal in value to all taxes assessed thereon, such property will only be liable for taxes to the amount of its value. *Justice v. Logansport*, 101 Ind. 326.

A return of the duplicate does not affect the lien of the taxes. *Mesker v. Koch*, 76 Ind. 68.

The lien of taxes on personality is superior to the lien of execution sale is delivered to the treasurer. *Barker v. Morton*, 19 Ind. 146; *McNell v. Farneman*, 37 Ind. 203.

The lien for taxes on personality is superior to the lien of an execution issued and levied after the attaching of the tax lien. *McNell v. Farneman*, 37 Ind. 203.

A lien for taxes can only be removed by an actual payment of the tax. A personal liability of some one for the tax will not relieve the property from the lien. *Gable v. Selben*, 137 Ind. 155.

All the property of a taxpayer is liable for the taxes due and owing by such taxpayer, and none of such property can be relieved from the lien of such taxes except by the payment thereof. *Beard v. Allen*, 141 Ind. 243.

Partial payment of taxes on property does not release any portion of the property from its liability for the entire tax. *Beard v. Allen*, 141 Ind. 243.

All property
liable for full
payment of
tax.

SEC. 173. All the property, both real and personal, situated in any county, shall be liable for the payment of all taxes, penalties, interest and costs charged to the owner thereof in such county, and no partial payment of any such taxes, penalties, interest or costs shall discharge or release any part or portion of such property until the whole is paid; which lien shall in nowise be affected or destroyed by any sale or transfer of any such personal property, and shall attach on the first day of April, annually, for the taxes of such year.

A sale or transfer of property does not effect a lien for taxes, and the purchaser can not compel the collection of the taxes out of other property of the seller. *Mesker v. Koch*, 76 Ind. 68; *Rihard v. Xordyke*, 76 Ind. 130.

Where the lien of the State for taxes is foreclosed, the land sold for less than the amount of the decree of foreclosure, and the certificate of purchase assigned by the purchaser to the owner of the land, such land, in the hands of such owner, is liable for the remainder due on the decree.

The foreclosure of its lien for taxes, by the State, does not merge such lien in the judgment.

The lien of the State for taxes is perpetual for all taxes due from the owner of property, and all property owned by him in the county is liable for all taxes chargeable to him. Nothing short of payment can relieve such property from the lien. *Beard, Treas., v. Allen*, 141 Ind. 243.

Effect of partial
payment
on sale.

SEC. 174. If any such partial payment be made, and the payer desires it to be applied on any particular property, real or personal, the property so designated shall not be sold for the residue of the taxes due, if property of the same description can be found sufficient to make the balance due.

If taxes are paid upon a particular portion of property, such portion can not be sold until the other portion is exhausted. *Cones v. Wilson*, 14 Ind. 465.

SEC. 175. The Treasurer shall receive the tax on a part of any real estate charged with taxes, provided the person paying such tax shall furnish a particular specification of such part and shall pay a like proportion of all the several taxes charged thereon for State, county, road or other purposes; and if the tax on the remainder of such real estate shall remain unpaid, the Treasurer shall enter such specification on his return to the County Auditor, to the end that the part on which the tax remains unpaid may be clearly known; but such payment shall not discharge any lien of the State, as provided for in this act.

Payment on
parts of real
estate.

SEC. 176. Whenever any person shall pay the taxes charged on any property the Treasurer shall enter such payment in his cash book, give a receipt therefor, specifying for whom paid, the amount paid, what year paid for, and the property and value thereof on which the same was paid, according to its description on the duplicate, in whole or in part of such description, as the case may be; and such entry and receipt shall bear the genuine signature of the Treasurer, or his deputy, receiving such payment; and, whenever it appears that any receipt for the payment of such taxes shall be lost or destroyed, the entry so made shall be read in evidence in lieu thereof. The Treasurer shall enter the name of the owner or of the person paying the tax opposite each tract or lot of land when he collects the taxes thereon, and the postoffice address of the person paying such tax.

Receipt for
tax, entry on
cash book.

SEC. 177. Any person who has a lien upon any lands returned for the nonpayment of taxes may pay the taxes, interest and charges thereon, and the receipt of the County Treasurer therefor shall constitute an additional lien on such land, to the amount therein specified, and the amount so specified shall be collectible, with interest thereon, in the same manner as the original lien.

Lien holder
may pay tax
and have additional
lien.

Purchasers of lands under a mortgage who pay taxes, then a lien on such lands, can not recover the same from the mortgagor in the absence of a warrant or contract making him liable for the payment of such taxes. *Semans v. Harvey*, 52 Ind. 331.

SEC. 178. Whenever the occupant or tenant of any real estate shall have paid the taxes thereon, or the same

Tenant paying
tax may retain
from rent.

shall have been collected of him, and any other person, by agreement or otherwise, ought to pay such tax, or any part thereof, such occupant or tenant shall be entitled to recover by action the amount which such person ought to have paid, or retain the same from any rent due or accruing to such person from him, for the land so taxed.

When a tenant pays taxes he may recover the same from the owner of the property. *Hammou v. Sexton*, 69 Ind. 37.

Treasurer
charging
himself by
mistake may
recover.

SEC. 179. Whenever any County Treasurer shall, by mistake, have charged himself with, and accounted for, any tax that shall not have been paid to him, such tax shall be deemed and taken as due him personally, whether in or out of office, and may be by him collected in the same way as other taxes due and unpaid are collected. The same shall bear legal interest and be collectible in the same manner as the original lien.

If a Treasurer receives illegal currency in payment of taxes, he can not again collect such taxes for his own use. *Richards v. Stodsdell*, 21 Ind. 74.

When a County Treasurer takes a judgment for taxes that are due him under this section, he can not have such judgment declared a specific lien on the land on which the taxes accrued. *Schamm v. Showers*, 49 Ind. 285.

Delinquent
taxes may be
paid before
sale.

SEC. 180. Delinquent taxes, with penalty, interest and cost, may be paid to the County Treasurer at any time before property is sold therefor.

Treasurer's
cash book.

SEC. 181. The County Treasurer shall keep a cash book, in which he shall enter at the time of its reception, the amount of money received by him for taxes and from all other sources, from any person, company or corporation, the date of its reception and the name of the person paying the same, and designating particularly each item received for taxes. He shall, at the close of each month, report the total amount of such cash entries and the account on which it is paid to the County Auditor, who shall preserve such report, and such County Treasurer shall keep such cash book in his office during his official term, and on going out of office he shall deliver the same to the County Auditor, to be preserved as a public record.

SEC. 182. Whenever the County Treasurer shall discover or receive credible information, or if he shall have reason to believe, at any time, that any of the property, real or personal, or the poll of any person, liable to pay tax, has not been assessed by the Assessor, or that any real or personal property has been omitted in the assessment of any year or number of years, from the assessment book or from the tax duplicate, or that any person, company or corporation has, from any cause, omitted to list any part of his, her or their property for any year or number of years, or has, in any year, or number of years, given a false, or incorrect, or partial statement of any of the property required by this act to be listed, or that any real property, by reason of defective description thereof, has failed to pay taxes for any year or number of years, or that the tax for which the said property was liable, has not been paid, or shall discover, before the meeting of the County Board of Review that any of the Assessors have not returned the full value of the assessables of any person required to be listed, or have made any erroneous return of such assessables, he shall report the same forthwith to the County Auditor, whose duty it shall be to correct the tax duplicate in his office, and at the same time to correct, in like manner, the duplicate in the hands of the County Treasurer, adding such property or polls thereto, and also adding the assessments and valuation thereon. The County Treasurer shall then collect the taxes thereon the same as if they had been assessed by the Assessor. All property so assessed shall be rated at its true cash value. As to notice to the person when not present, if residing in the county, the Treasurer shall be governed by the provisions of the foregoing sections in relation to Assessors and Auditors, but he shall not be required to assess the property upon actual view, or to furnish the owner thereof with a blank list.

If a County Auditor makes an assessment of omitted property after delivering up the duplicate to the Treasurer, and the treasurer acts on such assessment, it will be sufficient. *Strader v. Manville*, 33 Ind. 111.

Under the tax laws of 1872 and 1881, assessments of omitted property could only be made for the current year. *Stockman v. Robinson*, 80 Ind. 185; *State ex rel. v. Howard*, 80 Ind. 466; *Board v. Murphy*, 100 Ind. 570. (A different rule prevails under existing laws. See *Salut v. Welsh*, 141 Ind. 382.)

The tax laws of this State make it the duty of County Assessors to assess all property which has been omitted from taxation, and for that

purpose he not only has the power expressly given him by statute, but also the power given to Township Assessors, County Auditors and County Treasurers. *State ex rel. Morgan, Assessor, v. Real Estate, etc., Assoc.*, 151 Ind. 503.

In neither of Sections 142 or 182 is the officer directed or permitted to add penalty or interest, or do anything more than place the property upon the duplicate, assess its taxable value, extend the taxes against the same and proceed to collect them as are other taxes collected. *Gallup, Ex., v. Schmidt, Treas.*, 154 Ind. 216.

Delinquent
list.

SEC. 183. Between the first Monday of December and the first of January, annually, the County Auditor shall make out and record, in a book to be provided for that purpose, a list of lands and lots, returned and remaining delinquent for taxes, including as well the lands of those whose personality, as assessed on the tax duplicate, is less in value than the taxes charged against the lands or lots, describing such lands or lots as the same are described in the tax duplicate, and charging them with the amount of delinquent tax, with interest and a penalty of ten per centum on such taxes, also with the taxes of the current year, and shall certify to the correctness thereof, with the date when the same was recorded, and sign the same by himself or deputy, officially.

In making out a list of delinquent taxes, the County Auditor is not required to add to such taxes a penalty and interest for each year that such taxes may remain unpaid, the statute only contemplating the addition of a penalty and interest for the first year. *Evansville, etc., R. R. Co. v. West*, 139 Ind. 254.

Publication
of delinquent
list, notice.

SEC. 184. The Auditor shall cause a copy of such list to be posted on the door of the court house, and also in some public and conspicuous place in each township, at least three weeks before the day of sale, and shall have such list printed in one weekly newspaper of the county for three consecutive weeks before such sale. It shall only be necessary in the posted list to state in the aggregate the amount of taxes, penalty, interest, and cost due thereon, including the taxes for the current year. To such list shall be attached and in like manner so posted a notice that

so much of said lands and lots as may be necessary to discharge the taxes, interest and charges which may be due thereon, or due from the owner thereof, at the time of sale, will be sold at public auction at the court house door of such county, on the second Monday in February next thereafter, commencing at 10 o'clock of said day, and continuing from day to day thereafter until all are offered. The County Auditor shall, on or before the day of sale, insert at the foot of such list on his record a copy of such notice, and certify on said record immediately following such notice the manner in which the same was posted, and the place where the same was posted, and for what length of time it was printed and posted. The expense of such printing, when had, shall be paid out of the county treasury, and it shall not exceed twenty cents for each description.

The County Auditor may bind the county by a contract made for publishing the delinquent list of lands for sale. *Board v. Kierolf*, 14 Ind. 284; *Foy v. Board*, 37 Ind. 347.

A County Auditor can not have a delinquent tax list published in his own paper and collect the expense thereof from the county. *Stropes v. Board*, 72 Ind. 42.

If the owner of lands has personality, he may enjoin the advertising of his lands for sale for delinquent taxes. *Abbott v. Edgerton*, 53 Ind. 196.

SEC. 185. On the day mentioned in the notice, the County Treasurer shall commence the sale of such lands, and shall continue the same from day to day until so much of each parcel assessed or belonging to each person assessed, shall be sold as will pay the taxes, interest and charges thereon, or chargeable to such person in said county. The person offering at said sale to pay the required sum for the least quantity of any tract shall be considered the purchaser of such quantity: *Provided*, No bid shall be received from any person not a resident of the State of Indiana, until such person shall file with said Treasurer an agreement in writing consenting to the jurisdiction of the Circuit Court of the county in which such sale shall be made, and also filing with such Treasurer an appointment of some citizen of said county as agent of said purchaser, and consenting that service of process on such agent shall give such court jurisdiction to try and determine any suit growing out of or connected with such sale for taxes.

Persons may agree to bid jointly at tax sales for the protection of their own interest when such agreement is not made to prevent bidding at such sales. *Morrison v. Bank*, 81 Ind. 355.

If a County Treasurer sells lands at a delinquent tax sale to a non-resident of the State without taking from such person an agreement in

Sale of lands
for delinquent
taxes.

writing consenting that the Circuit Court of the county may have jurisdiction over such person, and also, filing with such treasurer an appointment of a citizen of the county as the agent of such purchaser, and consenting that process may be served upon such agent in any suit growing out of such sale, a sale to any such non-resident will be void. *Shedd v. Disney*, 139 Ind. 240.

In the absence of a contrary showing it will be presumed that a sale of lands for taxes was made by the officer designated by law to make such sale. *Gable v. Seiben*, 137 Ind. 155.

Sale of part of tract.

SEC. 186. When less than the whole of any tract of land shall be sold, the quantity sold shall be in a square form, as near as practicable, at the most northwesterly corner of the tract, and when less than the whole of any in-lot or out-lot of any city or town shall be sold, the part sold shall extend from the main or principal street, road or alley, forming the most convenient front to such lot, to the rear of such lot, and so as to bound the same by lines as nearly parallel with the outlines of such lot as practicable.

When a part of a tract of land is sold for taxes the law will locate such part in a square form in the most northwesterly corner of the tract. *Major v. Brush*, 7 Ind. 232.

Sale of more than one tract.

SEC. 187. When more than one tract or lot belonging to the same person shall be for sale at the same time, in the same municipal corporation or township, a part of one of said tracts or lots shall be offered, first for the payment of the whole sum due from such owner on all such delinquent lands or lots, or otherwise; and if no person shall bid off a part of such tract or lot for the sum required, the said tract or lot shall then be offered to the highest bidder for cash, and if any amount shall yet remain due, or if no person bid for a part or all of one tract or lot, each of the other tracts or lots shall be offered in like manner until the required sum is realized; and if no one bids upon a part or all of said tracts or lots separately, enough to pay the amount due, when [then] the whole of said tracts and lots shall offered together and sold to pay the taxes, penalty, interest and costs thereon.

Payment of bid, surplus.

SEC. 188. Where such sale is made, the purchaser at such sale shall immediately pay the amount of their respective bids to the Treasurer, who shall pay the surplus, if any, to the person entitled thereto; or if he has doubt, or a dispute arises as to the proper person, the same shall be paid into the county treasury. In case the purchaser fails to pay his bid, the land shall be again forthwith offered for sale the same as if no sale had been made, and the purchaser so failing shall forfeit and pay for the use of the common school fund of the county a penalty of

twenty-five per centum on the amount of his bid, to be recovered by action of debt in the name of the Treasurer, before any Justice of the Peace, or Court having jurisdiction, and the Prosecuting Attorney shall conduct such suit, and for his services a fee of five dollars shall be taxed against such delinquent purchaser.

SEC. 189. The County Auditor shall attend, either in person or by deputy, as the clerk of the sale of such delinquent land, and shall enter the same on a sufficient record book, giving a description of the proper tract or lot, showing how much of each was sold, to whom, and the price, or whether the same remains unsold.

SEC. 190. After payment shall have been made the County Auditor shall give the purchaser a certificate in writing, describing the land so purchased, the sum so paid, and the time when the purchaser will be entitled to a deed for said land, and where the County Surveyor has surveyed and furnished a sufficient description, said Auditor shall take care that the land is described and identified by that description. Such certificate shall be signed by the County Auditor, who shall register the same in his office before delivery to the purchaser. Such certificate shall be assignable, but no assignment thereof shall be valid unless indorsed on such certificate and acknowledged before some officer authorized to take acknowledgments of deeds, or the proper County Auditor or Recorder in his office, for which record said Auditor shall be entitled to a fee of twenty-five cents, to be paid by the purchaser and treated as a part of the costs of the sale.

In the absence of fraud or mistake, a person who assigns a tax certificate without an acknowledgment, can not be held answerable in any form of action. *Williamson v. Hittner*, 79 Ind. 238.

When tax certificates entitle the holder to possession of the premises, it is only when the sale is in all respects legal that possession can be obtained. *Barton v. McWhinney*, 85 Ind. 481.

Tax certificates are taxable and should be returned by the taxpayer under item 5 of the personal property schedule. *State ex rel. Goodman, Prosecuting Attorney, v. Hutton*, 149 Ind. 302.

SEC. 191. It is hereby made the duty of the County Treasurer, at the time he sells lands for taxes unpaid and delinquent as is directed in this act, and after the purchaser of land under such sales shall have [made] payment of the amount of their bids, respectively, to indorse upon and annex to each certificate to be given to the purchaser by the County Auditor, as required by this act, his written guaranty, signed by him, warranting that the taxes due upon the tract, lot or lots, piece or parcel of land, which, or a portion of which, are named in such certificate. And if it should at any time appear that such County Treasurer had, before the time for making such guaranty,

received, either in person or by deputy, the taxes assessed against such tract or tracts, lot or lots, piece or parcel of land, the holder of such certificate is entitled to his action upon such written guaranty aforesaid, forthwith, upon the fact becoming known that such lands were improperly sold, and without waiting the accrual of any special damage to such holder; and, in such action, the measure of damages to which such holder of such certificate is entitled, shall be double the amount paid by such holder, as taxes, interest, penalty and charges, with lawful interest thereon; or such holder is entitled to his action on the official bond of such Treasurer, against him and his sureties, as for dereliction in duty, in which action the measure of damages is the same as above mentioned.

If a County Treasurer receives in payment of the purchase money at a tax sale anything except money, he may show such facts in a suit against him upon the guaranty provided in said section for the purpose of showing that the purchase money is unpaid. *Baldwin v. Shill*, 3 Ind. App. 291.

Time and
cost of
redemption.

SEC. 192. The owner or occupant of any land sold for taxes, or any other persons having an interest therein, may redeem the same at any time during the two years next ensuing, in the following manner: If redeemed within six months from the day of sale, he shall pay to the County Treasurer, for the use of the purchaser, his heirs or assigns, the full sum of the purchase money named in his certificate, and all the costs of sale, together with ten per centum in addition; if redeemed after six months and within one year, he shall pay, in like manner, the purchase-money, together with costs and fifteen per centum in addition; if redeemed after one year and within two years, he shall pay, in like manner, the purchase-money, together with costs and twenty-five per centum in addition, and he shall also pay all taxes which have been paid thereon, with interest at the rate of six per centum per annum on such taxes, and, in case the party purchasing the land, or his assigns, fails to take a tax deed for the land so purchased within six months after the expiration of the two years, no interest shall be charged or collected from the redemptioner after that time.

This section is applicable only to sales that are made in accordance with the law, it having no reference to illegal sales. *Michigan, etc., Co. v. Kroh*, 102 Ind. 515; *Logansport v. Case*, 124 Ind. 254.

When a sale is ineffectual to convey title, but vests in the purchaser the lien of the State for taxes, a redemption from the sale must be made under this section. *Logansport v. Case*, 124 Ind. 254.

Persons who are under legal disabilities at the time of the sale, and who redeem after the disability ceases, must redeem on the same terms as other persons. *Schissel v. Dickson*, 129 Ind. 139.

The rate of interest and per centum that is required to be paid on the redemption by the owner of lands sold for taxes does not apply to

cases where a sale of lands is involved and the purchaser seeks to enforce a lien against the land for the purchase money and interest thereon. *Stalcup v. Dixon*, 136 Ind. 9.

A person who has purchased real estate at a sheriff's sale and holds a certificate of sale has such an interest in the land as authorizes him to redeem such land from a sale for taxes. *Gable v. Seiden*, 137 Ind. 155.

Where lands sold for taxes are redeemed within the time fixed by statute; no interest can be charged upon the purchase money paid at the sale; but the redemptioner is required to accept the purchase-money and the per centum thereon as fixed by statute, the cost of sale and all additional taxes paid by the purchaser, and six per cent. interest on such additional taxes paid by the purchaser. *Redline v. Johnson*, 143 Ind. 44.

If a person whose lands are sold for taxes is under legal disabilities at the time of the sale, and such person redeems the lands within the extended time given him by the statute, he has a right to make the redemption upon the same terms as other persons may redeem from such sales within the period fixed by statute. *Reislme v. Johnson*, 143 Ind. 44; *Wagner v. Stewart*, 143 Ind. 78.

Where the lands of a person under legal disabilities are sold for the non-payment of taxes, the purchaser can not, during the continuance of such disabilities, foreclose the lien he obtains upon such lands by virtue of his purchase and have such land sold for the purpose of paying the amount due him as purchase-money, penalty and interest. *Wagner v. Stewart*, 143 Ind. 78.

SEC. 193. Infants, idiots and insane persons may redeem any lands belonging to them sold for taxes, within two years after the expiration of such disability, in the same manner as provided in the preceding section for redemption by other persons.

This section does not prevent the execution of a deed before the time expires in which persons under disabilities may redeem. *Lancaster v. DuHadway*, 97 Ind. 565.

Persons who redeem after their legal disabilities cease must do so on the same terms as other persons. *Schissel v. Dickson*, 129 Ind. 139.

SEC. 194. Any person claiming an undivided part of any land sold for taxes may redeem the same on paying such proportion of the purchase-money, interest, penalty and subsequent taxes, as he shall claim of the land sold. Redemption undivided part.

SEC. 195. Any person claiming an undivided share in any land out of which an undivided part shall have been sold for taxes, may redeem his undivided share by paying such portion of the purchase-money, interest, penalty and subsequent taxes as he claims of the land sold. Redemption undivided share.

SEC. 196. Any person claiming a specific part of any lands sold for taxes may redeem his specific part by paying such proportion of the purchase-money, interest, penalty and subsequent taxes as his quantity of ground shall bear to the whole quantity sold. Redemption specific part.

SEC. 197. Any person claiming a specific part of any lands out of which an undivided part shall have been sold for taxes charged on the whole tract or lot, may redeem his specific part by paying such proportion of purchase-money, Redemption specific part.

interest, penalty and subsequent taxes as his quantity of acres shall bear to the whole quantity taxed.

Owner of specific part not liable to contribute for part sold.

SEC. 198. Any person claiming a specific part of any lands out of which a specific part belonging to some other owner shall have been sold for taxes charged on the whole tract or lot, may exonerate himself from all liability to contribute to the owner of the part sold, by paying into the county treasury, at any time before the expiration of the time allowed for redemption, such proportion of purchase-money, penalty and interest as his quantity of acres will bear to the whole taxed; and such payment shall operate as a redemption of a proportionate part, according to the amount paid, of the land sold.

Auditor to determine proportion to be paid by redemptioner.

SEC. 199. In every case where a partial redemption is asked for, pursuant to the preceding five sections, the County Auditor, upon the application of the redemptioner, after notice to the holder of the certificate, shall determine the proportion to be paid by the party applying to redeem, and his decision shall be final thereon. For his services in stating the proportion, the redemptioner shall pay him fifty cents; and in every case of a partial redemption, pursuant to either of the said sections, the quantity sold shall be reduced in proportion to the amount paid on such partial redemption, and the County Auditor shall convey accordingly.

Redeeming land held jointly.

SEC. 200. Whenever the land of any one person shall be sold for taxes assessed conjointly on the lands of such person and the lands of another person, and such other person shall not pay his due proportion, the person whose lands shall be sold may redeem the same in paying the amount due to the purchaser; and he shall be entitled to recover from such other person whose lands were assessed with his, a just proportion of the redemption money so paid, with lawful interest from the time of such redemption; but no suit shall be brought for the recovery of such proportions until after the expiration of the time allowed for redemption.

This section applies where lands are assessed to two or more persons having an undivided interest in the lands, and not to separate tracts of lands assessed to the same person, one of which tracts he subsequently conveys. *Cockrum v. West*, 122 Ind. 372.

Recovery.

SEC. 201. If such owner shall not redeem the lands sold, and the same shall be conveyed by the County Auditor, such owner may recover from such other person the same proportion of the value of the land sold and conveyed,

that he ought to have paid of the tax, interest and charges, for which the land shall have been sold.

SEC. 202. Every judgment obtained under either of the last two sections shall have priority as against the lands of the defendant therein, on which the tax was assessed and for which such proportionate part ought to have been paid, to all mortgages executed, and all judgments recovered since the time when such taxes were assessed.

What judgments have priority.

SEC. 203. In case any lasting and valuable improvements shall have been made by the purchaser at a sale for taxes, or by any person claiming under him, and the land on which the same shall have been made shall be redeemed as aforesaid, the premises shall not be restored to the person redeeming, until he shall have paid or tendered to the adverse party the value of such improvements; and, if the parties can not agree on the value thereof, the same proceedings shall be had in relation thereto, as shall be prescribed in the law existing at the time of such proceedings for the relief of occupying claimants of lands. No compensation shall be allowed for improvements made before the expiration of two years from the date of sale for taxes.

Improvements by purchaser at tax sale.

SEC. 204. When lands sold for taxes, or any portions thereof, shall be redeemed, the County Auditor shall insert a memorandum of such redemption, the quantity or description of the portion redeemed, if not the whole, the date thereof and by whom made, on his record of sales of land for delinquent taxes, and sign the same officially, and shall likewise give a certificate thereof to the person redeeming.

Auditor's memorandum of redemption.

SEC. 205. If no person shall redeem the lands sold for taxes within two years from the sale, at the expiration thereof, and on production of certificate of purchase, and in case the certificate covers only a part of a tract or lot of land, then accompanied with a survey or description of such part, made by the County Surveyor, the Auditor of the county in which the sale of such lands took place shall execute to the purchaser, his heirs or assigns, in the name of the State, a conveyance of the real estate so sold, which shall vest in the grantee an absolute estate in fee simple, subject, however, to all the claims which the State may have thereon for taxes, or liens, or incumbrances. In making such conveyance, when two or more parcels, tracts, or lots of land are sold for the non-payment of taxes to the same purchaser or purchasers, or the same person or persons shall, in any wise become the owner of the certificates thereof, all of such parcels shall be included in one deed.

Tax deed.

Purchasers at tax sales take their deeds and title subject to all liens the State may have on the lands for taxes or other claims including school fund mortgages. *State ex rel. v. Jones*, 35 Ind. 175.

A sale and conveyance of land for taxes will not estop the State from claiming title to the land by escheat. *Reid v. State ex rel.*, 74 Ind. 252.

Tax deeds can only vest an estate in fee simple in the grantee when the law regulating the assessment of lands and the sale thereof for taxes has been strictly complied with. *Steeple v. Downing*, 60 Ind. 478.

The description of lands in a tax deed can not be corrected by suit. *Keefer v. Force*, 80 Ind. 81.

The owner of lands can not enjoin the execution of a tax deed because he had personal property that might have been sold for taxes. *St. Clair v. McClure*, 111 Ind. 467.

If the owner of lands seeks to enjoin the execution of a tax deed on account of the invalidity of the sale he must tender the purchaser the amount due him. *Morrison v. Jacoby*, 114 Ind. 84; *Logansport v. Case*, 124 Ind. 254; *Rowe v. Peabody*, 162 Ind. 698.

Form of deed.

SEC. 206. Such conveyance shall be executed by the County Auditor, under his hand and seal, witnessed by the County Treasurer and acknowledged before the County Recorder, or any other officer authorized to take acknowledgments and the same shall be recorded in the Recorder's office before delivery; a fee for recording shall be paid by the purchaser and shall be included in the costs of sale. Such deed shall be *prima facie* evidence of the regularity of the sale of the premises described in the deed, and of the regularity of all prior proceedings, and *prima facie* evidence of a good and valid title in fee simple in the grantee of said deed; and such deed shall be in the following form, as nearly as the nature of the case will admit, namely:

Whereas A. B. did, on the — day of —, 18—, produce to the undersigned, C. D., Auditor of the county of —, in the State of Indiana, a certificate of purchase, in writing, bearing date the — day of —, 18—, signed by E. F., who, at the last mentioned date, was Auditor of said county, from which it appears that the said A. B. did, on the — day of —, 18—, purchase at public auction at the door of the court house in said county, the tract, parcel or lot of land lastly in this indenture described, and which lot was sold to — for the sum of — dollars and — cents, being the amounts due on the following tracts or lots of land, returned delinquent in the name of G. H., for the non-payment of taxes, costs and charges for the years —, namely: [Here set out the lands offered for sale]; which said lands have been recorded, among other tracts, in the office of said Auditor, as delinquent for the non-payment of taxes, costs, and charges due for the year last aforesaid, and a true copy of said record transmitted to the office of the Auditor of State, in manner

and form prescribed by law, and legal publication made of the sale of said lands; and it appearing that the said A. B. is the legal owner of said certificate of purchase and the time fixed by law for redeeming the land therein described having now expired, the said G. H., nor any person in his behalf, having paid or tendered the amount due the said A. B., on account of the aforesaid purchase, and for the taxes by him since paid, and the said A. B., having demanded a deed for the tract of land mentioned in said certificate, and which was the least quantity of the tract above described that would sell for the amount due thereon for taxes, costs and charges, as above specified, and it appearing from the records of said County Auditor's office that the aforesaid lands were legally liable for taxation, and had been duly assessed and properly charged on the duplicate with the taxes for the years —.

Therefore, this indenture, made this — day of —, 18—, between the State of Indiana, by C. D., Auditor of said county, of the first part, and the said A. B. of the second part, witnesseth: that the said party of the first part, for and in consideration of the premises, has granted, bargained and sold unto the said party of the second part, his heirs and assigns, forever, the tract or parcel of land mentioned in said certificate, situate in the county of —, and State of Indiana, and described as follows, namely: [Here set out the particular tract or parcel sold], to have and to hold the said last mentioned tract or parcel of land, with the appurtenances thereto belonging, to the said party of the second part, his heirs and assigns, forever, in as full and ample a manner as the Auditor of said county is empowered by law to sell the same.

In testimony whereof, the said C. D., Auditor of said county of —, has hereunto set his hand and affixed the seal of the Board of County Commissioners, the day and year last above written.

Witness:

_____, [L. s.]
Auditor of — County.

STATE OF INDIANA, — COUNTY, ss.

Before me the undersigned, —, in and for said county, this day, personally came the above-named C. D., Auditor of said county, and acknowledged that he signed and sealed the foregoing deed for the uses and purposes therein mentioned.

In witness whereof, I have hereunto set my hand and seal this — day of —, 18—.

_____, [L. S.]

Tax deeds must be witnessed by the County Treasurer in order that they will be proof of the facts recited therein. *Gabe v. Root*, 93 Ind. 256; *Bowen v. Striker*, 100 Ind. 45.

It is doubtful if the Legislature has power to make tax deeds conclusive evidence of the facts therein stated. *White v. Flynn*, 23 Ind. 46.

Tax deeds are prima facie evidence of such facts only as the law requires to be set forth therein. *White v. Flynn*, 23 Ind. 46; *Millikan v. Patterson*, 91 Ind. 515.

When tax deeds do not recite that the owner of the lands had no personal property, or that his personality was first sold, such deeds are not admissible to prove title unless there is evidence showing such want or sale of personal property. *Woolen v. Rookfellow*, 81 Ind. 208; *Smith v. Kyles*, 74 Ind. 575; *Ward v. Montgomery*, 27 Ind. 278.

If the description of land in a tax deed is so indefinite that the land can not be identified, the purchaser can not have his title quieted. *Sharpe v. Dillman*, 77 Ind. 280.

Tax deeds executed in other States and regular on their face are presumptive evidence of the regularity of the proceedings and prima facie evidence of title. *Wines v. Woods*, 100 Ind. 291.

Under the provisions of Section 6489, R. S. 1881, and also Section 8234, R. S. 1894 (Section 206, above), a tax deed is prima facie evidence of the regularity of the sale of the premises described in the deed, and of the regularity of all of the proceedings; and the holder of a tax deed is not required to support it with proof that the delinquent had no personal property at the time of the sale from which the tax might be collected. *Richard et al. v. Carrie*, 145 Ind. 49.

SEC. 207. In case circumstances should exist requiring any variation from the foregoing form, in the recital part thereof, the necessary change shall be made by the County Auditor executing such deed, and the same shall not be vitiated by any such change, provided the substance be retained.

SEC. 208. The County Auditor shall be entitled to receive for each tax certificate fifty cents, and for each tax deed one dollar, which shall include the acknowledgment, and in case two or more deeds be made to the same person, the Auditor shall be entitled to demand and receive from such person seventy-five cents for the first deed and fifty cents for each additional one.

SEC. 209. The County Auditors are hereby authorized to make deeds for lands in their respective counties, sold for taxes under any former law, where the same remains yet to be done, and the deeds so made shall be good and valid, as if made by the person authorized under any former law to make them.

SEC. 210. When conveyances are delivered for lands sold for taxes the certificates therefor shall be canceled and filed away by the Auditor; and in case of the loss of any certificate, on being fully satisfied thereof by due proof

Change of form.

Fee for tax certificate and deed.

Deeds under former laws.

Certificate canceled.

or upon the production of a certified copy thereof, the Auditor may execute and deliver the proper conveyance, and file such proof in his office.

SEC. 211. A register shall be kept by the County Auditor in his office containing a brief description of the lands by him conveyed on sales for taxes, the name of the person charged therewith, the date of the sale, the name of the purchaser, the amount for which it sold, the name of the grantee in the deed, and the date of its execution.

SEC. 212. Whenever the County Auditor shall discover, prior to the conveyance of any lands sold for taxes, that the sale was, for any cause whatever, invalid, he shall not convey such lands; but the purchase-money and the interest thereon shall be refunded out of the County Treasury to the purchaser, his representatives or assigns, on the order of the County Auditor; and such land, if originally liable to taxation, being still delinquent, shall again be placed on the delinquent list, and the amount so refunded, with interest, be collected as in other cases.

When a sale is declared void before a deed is made the county is liable for the purchase money unless the purchaser has received the same from the land owner. *McWhinney v. Brinker*, 64 Ind. 390.

It is only when the purchaser acquires neither title to the land nor a lien for his purchase-money that the county will be liable to refund such purchase-money. *State ex rel. v. Castee*, 110 Ind. 174.

This and the next succeeding section has the same application to sales made by cities for taxes as to sales made by county officers. *McWhinney v. Indianapolis*, 101 Ind. 150; *Millikan v. Lafayette*, 118 Ind. 323.

Cities are only liable to refund the purchase-money when the property was not liable to taxation, or the tax was paid before sale. *McWhinney v. Indianapolis*, 98 Ind. 182.

If the owner of lands sold for non-payment of taxes claims that such sale is invalid because the lands are not liable to taxation, or that the taxes thereon had been paid before sale, or on account of a defective description of the lands, the burden rests upon such owner to establish the facts showing such invalidity. *Cole v. Gray*, 139 Ind. 396.

If a person holding a tax deed for lands sold for non-payment of taxes convey such lands, and the tax sale is invalid and ineffectual to convey title, the purchaser from the purchaser at the tax sale will become invested with the lien held by the tax sale purchaser, and if his deed is on record the owner of the lands is bound to know of the rights of such purchaser in such lien. *Cole v. Gray*, 139 Ind. 396.

SEC. 213. No sale or conveyance of land for taxes shall be valid if at the time of being listed such land shall not have been liable to taxation, or, if liable, the taxes thereon shall have been paid before sale, or if the description is so imperfect as to fail to describe the land or lot with reasonable certainty and in all such cases, the money paid by the purchaser at such void sale shall be refunded, with interest, out of the county treasury, on order of the County Auditor.

When sale invalid.

If lands sold were not liable to taxation, or if the tax was paid before sale, the sale will be invalid and the purchase-money should be refunded. *McWhinney v. Indianapolis*, 38 Ind. 182; *Same*, 101 Ind. 150.

If a purchaser at a tax sale is prevented from obtaining title to the land because of a prior lien thereon in favor of the State, such purchaser can not have his purchase-money refunded. *McWhinney v. Leansport*, 132 Ind. 9.

[As amended by Act of 1901. In force on and after March 11, 1901.]

Transfer of
State's lien to
grantee.

Section 214. If any conveyance for taxes shall prove to be invalid and ineffectual to convey title because the description is insufficient, or for any other cause than the first two enumerated in the preceding section, the lien which the State has on such lands shall be transferred to and vested in the grantee, his heirs and assigns, who shall be entitled to recover from the owner of such land (or from the owner of any life estate therein, or from any other person in possession of such lands, first personally liable for the payment of such taxes), the amount of taxes, interest and penalty legally due thereon at the time of such sale, with interest as in this act hereinafter provided, and all taxes subsequently paid and such lands shall be bound for the final payment thereof.

(See Section 223.)

When the lands sold are so described as to indicate the lands intended, but not described with sufficient certainty to convey title, the purchaser will have a lien thereon for his purchase-money, penalty and interest. 71 Ind. 244; 81 Ind. 180; 88 Ind. 159; 90 Ind. 352; 104 Ind. 75; 110 Ind. 174; 123 Ind. 324.

Purchasers have liens in all cases of invalid sales, except where sales are void for reasons specified by statute. 96 Ind. 291; 114 Ind. 84; 124 Ind. 254.

Sales are illegal when the land owner had personal property subject to sale for the taxes due, but purchasers at such sales have a lien for their purchase-money. 81 Ind. 180; 110 Ind. 174.

Such liens may be declared, in actions to recover the lands, or to quiet title thereto. 85 Ind. 481; 88 Ind. 159; 121 Ind. 180; 104 Ind. 498.

Purchasers of land at private sales for taxes have a lien for purchase-money when the sale is invalid. 10 Ind. 352.

The burden of the proof is upon the land owner to show that there is no lien created by the sale. 104 Ind. 75.

Liens of purchasers must be enforced within fifteen years from the time the right of action accrues. 81 Ind. 191; 87 Ind. 317; 95 Ind. 144.

If a person holding a tax deed for lands sold for the non-payment of taxes, convey such lands, and the tax sale is invalid and ineffectual to convey title, the purchaser from the purchaser at the tax sale will become invested with the lien held by the tax sale purchaser, and if his deed is on record the owner of the lands is bound to know of the rights of such purchaser in such lien. *Coic v. Gray*, 130 Ind. 326.

When sale
not invalid.

SEC. 215. The sale of lands for taxes shall not be invalid on account of such lands having been listed or charged on the duplicate in any other name than that of the rightful owner.

Taxation of lands in the name of persons not the owner thereof will render tax sales of such lands invalid. 71 Ind. 244; 94 Ind. 201; 102 Ind. 385; 88 Ind. 90.

SEC. 216. In all case of sale of lands for taxes, if the purchaser or his assigns shall die before a deed shall be executed on such sale, the deed may be executed by the Auditor to and in the name of the deceased person, if such deceased person being still alive, would be entitled to a deed, or to his heirs at law or devisees; which deed shall vest the title in the heirs or devisees of such deceased person in the same manner and liable to like claims of creditors and other persons as if the same had been executed to such deceased person immediately previous to his death (or the executor or administrator may assign the certificate of purchase, and the deed may issue to the assignee thereof), and in like cases which have heretofore occurred, the same rule shall apply, and all deeds heretofore issued in the name of any deceased person who if living at the time of the execution thereof would have been entitled thereto, shall have like effect as above provided.

When purchaser dies,
to whom deed
made.

(Sections 217, 218, 219, 220 repealed by act of the legislature 1897.)

SEC. 221. In all suits and controversies involving the title of land claimed and held by virtue of the deed executed by the County Auditor for non-payment of taxes thereon, under this or any former tax law, the person claiming by adverse title to such deed shall be required to prove, in order to defeat the title conveyed by such deed, either that the land described therein was not subject to taxation at the date of assessment of the tax for which it was sold, or that the taxes for the non-payment of which the land was sold were paid to the proper officer within the time limited by law therefor, or that the same had not been assessed for the taxes for the non-payment of which it was sold, or that the same had been redeemed pursuant to law, or that a certificate in proper form had been given by the proper officer, within the time limited by law for paying taxes or for redeeming from sales made for the non-payment thereof, stating no taxes were due at the time such sale was made, or that the lands were not subject to taxation.

Tax title defeated, proof.

When a tax deed is prima facie evidence of title on its face, the grantee need not show anything as to the levy of taxes or the meeting of the Board of Equalization. 94 Ind. 201; 94 Ind. 573.

In order to obtain title by virtue of a tax sale all the substantial requirements of the statute as to assessment of the property, levy of taxes and sale of property must be complied with. 23 Ind. 32; 23 Ind. 433; 25 Ind. 134; 60 Ind. 478; 91 Ind. 515; 121 Ind. 164.

The personal property of the land owner must be sold before the sale of his land. In order that the purchaser may obtain title to the land. 25 Ind. 134; 57 Ind. 276; 81 Ind. 308; 94 Ind. 573; 102 Ind. 385.

[As amended Act of 1891. In force March 11, 1901.]

Suit to quiet title.

Payment of claim with penalty.

Sheriff's deed. offered for sale. In case of the sale of such land or any

Section 222. Any person holding any deed of lands or lots executed by the County Auditor for the nonpayment of taxes may commence a suit in the Circuit Court of the county where such lands lie, to quiet his title thereto, without taking possession of such lands, and all parties who have or claim to have, or appear of record in any of the public offices of the county where such land or lot is situated to have any interest in or lien upon such land or lots, shall be made defendants in such suit, and no outstanding unrecorded deed, mortgage, lease or claim shall be of any effect as against the title or right of the complainant as fixed and declared by the decree made in such cause. The court shall cause the facts to appear of record, and if upon the hearing of such cause it shall appear that the complainant's title was or is invalid for any cause, such suit shall not be dismissed by the court, but the court, in cases where the tax was due and unpaid, or where the complainant's title was invalid for defect or uncertainty or description shall ascertain the amount due the complainant for principal and interest to be computed at twenty per cent. per annum, and from whom due and shall decree the payment thereof within a reasonable time by the owner of such land, the owner of any life estate therein or any other person in possession as lessee thereof and owing such sum ascertained; and in default thereof shall direct that such lease hold, life estate and land or lot shall be sold therefor, and that the equity and right of redemption of all defendants in such suit and all persons claiming under them shall be forever foreclosed. In any such sale the interest of the life tenant or other persons so adjudged to be owing the amount so ascertained shall be first offered for sale; on failure to realize therefrom a sum sufficient to discharge said lien and costs of sale then the life estate in such land together with the interest of such debtor shall be next offered for sale and on failure to realize a sum sufficient to discharge said lien and cost of sale then the rents and profits of said lands for a term not exceeding seven years shall be next offered for sale and on failure to realize a sum sufficient to discharge said lien and costs of sale, then, finally, the fee simple of such land shall be

part or parcel thereof, or any interest therein, the Sheriff shall, upon the receipt of the purchase money, execute to the purchaser a deed in fee simple, or a lease for the unexpired term of the interest so sold, as the case may be, and there shall be no redemption from any such sale, and the purchaser shall have the right of immediate possession of such land or lot.

[These decisions were given prior to amendments of 1901.]

Suit to quiet title can not be maintained if description is so defective that land can not be identified. 77 Ind. 280.

When plaintiff alleges source of his title, facts stated must show valid sale. 106 Ind. 291; 86 Ind. 81.

When land owner sues to quiet title he must tender purchase-money and bring money into court. 126 Ind. 331.

Defendant must set up tax title and ask to have same quieted in foreclosure proceedings. 109 Ind. 199.

Parties to suit, failing to set up their claims under tax sales, will be precluded by the decree entered. 114 Ind. 365.

In suits to quiet title if party fails to show title, he may have lien declared for amount due him. 71 Ind. 244; 121 Ind. 180; 88 Ind. 159.

The fifteen-year statute of limitation governs in suit to quiet title to tax sale lands. 87 Ind. 317.

The statute of limitation does not run in favor of purchaser at tax sale, unless he has actual possession of the land, or constructive possession under deed that shows title on its face, 114 Ind. 105.

Purchasers at tax sale must hold deed under such sale before they can sue to quiet title. 128 Ind. 153.

The penalty and rate of interest that the statute provides shall be paid to redeem lands from tax sale prior to the time fixed for the execution of a deed are not the same that governs in suits to quiet title, and a lien is declared in favor of the purchaser at a tax sale for the amount of the purchase-money and interest. *Stalcup v. Dixon*, 136 Ind. 9.

If the lands of a person under legal disabilities are sold for the nonpayment of taxes, the purchaser can not, prior to the time such disabilities shall cease, and the right to redeem from such sale has expired, enforce his lien against such lands and have the same sold to enforce payment thereof. *Wagner v. Stewart*, 143 Ind. 78; *Ristine v. Johnson*, 143 Ind. 44.

If a person holding a tax deed for lands sues to recover possession of the lands, and the title of the lands is put in issue, and the plaintiff fails to assert his lien for the purchase-money paid at the tax sale, and interest thereon, and the suit for possession is decided against him, such decision will bar him from afterwards asserting a lien for such purchase money and interest. *Milikan v. Werts*, 14 Ind. App. 223.

[As amended by Act of 1901. In force March 11, 1901.]

Section 223. If any conveyance made by the County Auditor pursuant to a sale made for the nonpayment of taxes and penalty.

taxes, under this or any former tax law, shall prove to be invalid and ineffectual to convey title for any other cause than such as are enumerated in the section immediately preceding the last section, the lien which the State had on such land for State, county, township and all lawful purposes, shall remain in full force and shall be transferred by such deeds to the grantee and vested in him, his heirs and assigns, who shall be entitled to recover from the owner of such lands the owner of any life estate, or any other person first personally liable for the payment of such taxes, the amount of such legal taxes, together with all lawful charges, with interest at twenty per cent. per annum from the date of such sale, and also the amount of all subsequent taxes paid with like interest and such claim shall be a lien upon such lands, and the same shall be bound for the final payment thereof; and in case judgment be rendered against the person holding the title from the Auditor as aforesaid for the recovery of such land in an action of ejectment or other action, either at law or in equity, brought by the owner of such land, his heirs or assigns, the court shall ascertain the amount due to the party holding such tax deed, and from whom due, for principal and interest and for all improvements made by him on such land, and shall decree the payment thereof within a reasonable time by the owner of such land; the owner of any life estate, if any there be, or any other person first liable for the payment of such taxes, such ownership and liability shall be ascertained by the court and entered of record in such cause, and in default of such payment the court shall decree that such life estate, the interest of such debtor in such lands and the fee simple thereof, shall be sold therefor or sufficient thereof to pay the amount of such improvements, principal and interest due to the party having the Auditor's deed, his heirs or assigns. Such property shall be offered and such sales shall be made in the order, and in the manner and form as provided in Section 222 of this act: *Provided*, That there shall be no right of redemption of such property or of any such interest therein after the date of sale, and that the sale shall be without the benefit of appraisement laws, and the Sheriff shall, upon receipt of the purchase money, execute to the purchaser a deed in fee simple or a lease for the unexpired term of the part or interest so sold, as the case may be, and the pur-

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chaser shall have the right of immediate possession of such land or lot and the improvements thereon.

[See Section 214 and Notes.]

On death of purchaser at a tax sale, his heirs have the right to enforce lien for purchase-money, penalty and interest. 84 Ind. 169.

The lien of taxes is superior to that of prior given mortgage for purchase money. 90 Ind. 352.

The lien of the State is transferred to the purchase of lands for taxes at private sale. 90 Ind. 352.

The Legislature has power to change the penalty or rate of interest given where property is sold for taxes at its pleasure. 60 Ind. 573; 90 Ind. 352.

Persons who are not made parties to suit to enforce tax liens are not affected thereby. 127 Ind. 70; 128 Ind. 591.

United States Courts have power to decree the enforcement of liens in favor of purchasers at tax sales in proper cases. 127 Ind. 70.

When lien is decreed under this section, sale ordered and made, it is without relief from valuation laws, and there is no right of redemption from such sale as under ordinary execution sales. 125 Ind. 523.

SEC. 224. No general or specific tax authorized by the laws of this State, and which shall be assessed on any property in any township, city or town within this State by any officer authorized to make assessments or which if made by another person or may be adopted by such officer as his act shall be held to be illegal or invalid for want of any matter of form in any proceeding not affecting the merits of the case, and which shall not prejudice the rights of the party assessed. And all taxes assessed upon any property in this State, shall be presumed to be legally assessed until the contrary is affirmatively shown, and no sale of real estate for the non-payment of the taxes thereon, shall be rendered invalid by showing that any certificate, return, affidavit or other paper required to be made and filed in any office is not found in any office where the same ought to be filed or found, but until the contrary is proven the presumption shall be in all cases that such certificate, return, affidavit or other paper was properly made and filed in the proper office.

Taxes placed upon tax duplicates are presumed to have been legally assessed until the contrary is shown. 109 Ind. 10; Midland, etc., Ry. Co. v. State ex rel., 11 Ind. App. 433.

The failure of the County Assessor, on listing omitted property for taxation, to file in the County Auditor's office a statement of his reasons for listing the property will not render the assessment invalid, where there is no other assessment against the owner of such omitted property. *Hunter Stone Co. v. Woodard*, 152 Ind. 478-479.

Owner deprived of title, etc., recover damages.

SEC. 225. Whenever the owner of any tract, lot, parcel or piece of land is deprived of his title thereto, or to some portion thereof, or by reason of any suit in relation thereto is put to expense, damages, costs or charges, by reason of the failure of the County Treasurer to give proper credit for any taxes paid to him, or whenever any tract, parcel or lot of land shall have been assessed to two different persons and the entire tax shall have been paid by either of them, and the Treasurer shall sell such land as delinquent on account of the non-payment by the other party of the taxes assessed against him thereon, the party damaged by such sale, or his legal representatives, may in an action against the officer by whose act or omission such damages have been caused, or upon his official bond, recover a judgment for double the amount of all the damages, costs and charges to which such owner may have been subjected in consequence of such failure or such dereliction of duty.

April settlement.

SEC. 226. The County Auditor and Treasurer shall attend at the office of said Auditor on the third Monday in April, annually, and the Treasurer shall then and there make a statement with the Auditor for the amount of taxes for which such Treasurer is to stand charged, as follows:

First. The Auditor shall, in a column or columns, for the purpose, opposite the name and description on the right hand of the duplicate, in the hands of the Auditor and Treasurer, extend a list of all such taxes as the Treasurer shall have been unable to collect.

Second. The Treasurer under oath, to be administered by the Auditor, shall certify in such duplicate to the correctness of such list, setting out in words and in figures the amount thereof.

Third. The Treasurer shall immediately proceed to collect the same in the manner provided by law.

Fourth. After deducting the amount of taxes so returned delinquent, and the collection fees allowed the

Treasurer from the several taxes charged on the duplicate, in a just and ratable proportion, the Treasurer shall be held liable for the balance.

Fifth. The Auditor shall certify in such manner as the Auditor of State shall direct the balance due for all State purposes, and the balance due for county or other local purposes, which certificate he shall deliver to the Treasurer, who shall deliver the same to the Auditor of State at the time he makes settlement with him. The said Treasurer shall also, on the first Monday in November, make settlement with the County Auditor for the amount of all the tax and delinquent tax for which said Treasurer is to stand charged; said settlement, in all respects, to be made and certified in such manner as the Auditor of State shall direct, and it shall be the duty of the County Auditor to forward a certified copy of such settlement forthwith to the Auditor of State.

Settlement sheets when properly signed are competent evidence. 62 Ind. 183; 93 Ind. 311.

See Acts 1897, p. 102.

[As amended Acts 1897, p. 163.]

SEC. 227. Each County Treasurer shall, on or before the 15th day of June in each year pay over to the State Treasurer all the moneys found due, for all State purposes according to the certificate of settlement with the Auditor of his county, and shall take a receipt or receipts for the money so paid, which he shall deposit with the Auditor of State, who shall give him a quietus. Pay money due to State, when.

SEC. 228. Each County Treasurer shall also, on or before the 1st day of January of each year pay over to the State Treasurer all the moneys found due for State revenue, school tax and all other State purposes according to the certificate of settlement with the Auditor of his county, and shall take a proper receipt or receipts from the Treasurer for moneys so paid, which he shall deposit with the Auditor of State who shall give him a quietus. Pay money due State revenue, etc., when.

Treasurer failing to pay, when.

SEC. 229. If any County Treasurer shall fail to pay into the State Treasury the amount due to the State on his account for the State and other taxes before or at the time required by this act he shall forfeit and pay to the State of Indiana a penalty of fifteen per cent. on the amount due, which shall, together with the amount due the State, be recovered by an action of debt in the name of the State of Indiana, against such dilatory Treasurer. And it shall be the imperative duty of the Auditor of State to notify at once the Prosecuting Attorney of the proper county of such default and such attorney shall bring suit immediately against such Treasurer, and such penalty, when recovered shall be paid into the State Treasury. For his services in collecting such penalty such Prosecuting Attorney shall be allowed a docket fee of ten dollars, to be taxed as costs against such defaulting officer. In no case shall the Prosecuting Attorney fail to bring such suit unless satisfactory evidence from the County Board is presented to him, showing by official action taken by such Board lawful cause why the Treasurer could not pay over in part or in whole the amount due on such Treasurer's account with the State.

Mistake in settlement, how corrected.

SEC. 230. If any County Treasurer in making settlement with the County Auditor shall stand charged by mistake with any tax remaining unpaid, and shall not receive a credit therefor in such settlement such Treasurer may collect such tax for his own use at any time after such settlement, either by distress and sale, as hereinbefore provided, or by an action of debt in his own name, before any Justice of the Peace or court having jurisdiction.

When the treasurer obtains judgment under this section, he can not have specific lien declared on the property on which the taxes accrued. 49 Ind. 285.

If treasurer receives illegal currency in payment of taxes, he can not again collect the taxes for his own use. 21 Ind. 74.

An action by County Treasurer to recover money paid by mistake is barred in six years after the date of payment. 95 Ind. 323.

Treasurer failing to settle, suit on bond.

SEC. 231. If any County Treasurer shall refuse or neglect to make return or settlement with the Auditor of his county, as in this act required, he and his sureties shall be held liable to pay the full amount of the taxes charged on the duplicate, respecting which he so refuses or neglects to

make return or settlement, together with interest from the time when such return or settlement should have been made, and ten per centum damages, and it shall be the duty of the County Auditor to notify immediately the Prosecuting Attorney of such failure or refusal, who shall bring suit at once upon such Treasurer's official bond.

SEC. 232. The County Treasurer shall pay over all the revenues collected for county, road and other purposes, and make settlements therefor at the time and in the manner by this act required, and, upon failure or refusal to do so, he and his sureties, on his official bond, shall be held liable to pay the full amount which he shall have paid over, together with interest and ten per centum damages, and such suit, if for State revenue, shall be brought by the Attorney-General, in the name of the State of Indiana, on relation of the Auditor of State, upon the written request of the Auditor of State, and, if for county, road, or any other purpose, it shall be brought by the Prosecuting Attorney, in the name of the State of Indiana, or [on] relation of the County Auditor, upon the written request of the County Auditor, or upon the order of the Board of County Commissioners. And in case of recovery upon such bond, such Attorney-General, or Prosecuting Attorney shall be entitled to a compensation of five per centum upon all sums collected, after judgment for the full amount, interest and ten per centum damages, has been obtained, and also a docket fee of ten dollars, to be taxed as costs against the judgment defendants.

Treasurer failing to pay revenue for county, roads, etc., suit.

Action on bond of treasurer for failing to pay over township funds should be brought on the relation of the County Auditor. 49 Ind. 47.

The County Auditor is the proper relator in a suit on the bond of a treasurer for failing to pay over funds. 21 Ind. 77; 58 Ind. 299; 62 Ind. 183; 81 Ind. 137.

When the State sues on the bond of a County Treasurer for its own use, no relator need be named. 27 Ind. 348.

When County Auditor is the relator, need not be averred that he has been instructed to sue. 33 Ind. 311.

In a suit on account of a mistake made in settling with a County Treasurer, the county board is the proper relator. 108 Ind. 443.

When a County Auditor is authorized to institute suit on the bond of a County Treasurer, such auditor may compromise such suit. 53 Ind. 75; 111 Ind. 170.

In a suit by a prosecuting attorney on bond of County Treasurer, the county is only liable for the fee of such attorney as computed on the sum that inures to the benefit of the county. 125 Ind. 270.

Stated
account,
prima facie,
evidence.

SEC. 233. The stated account of the County Treasurer against whom suit is brought, certified by the Auditor of State as truly transcribed from the account current against such Treasurer on the books of said Auditor's office, authenticated by the State seal, shall be *prima facie* evidence against such Treasurer and his sureties.

Certified copies of the account current of a County Treasurer kept by the County Auditor are competent evidence against such Treasurer. 22 Ind. 241.

Books, papers
used in suit.

SEC. 234. In all suits brought against any County Treasurer and his sureties, the books and papers belonging to the Treasurer's office and all books and papers belonging to the Auditor's office, shall, when proved by the oral testimony of the Auditor, be admissible testimony.

Duties of
Sheriff as to
collecting.

SEC. 235. The Sheriff, or other officer, who shall collect any money from any delinquent County Treasurer or his sureties, shall, within ten days after the assessment and collection thereof, pay into the county treasury such portion thereof as shall belong to the county, and within thirty days after such collection, shall pay into the State Treasury the portion belonging to the State, retaining the same traveling fees allowed by law to County Treasurers, or he shall pay the same over in such other manner as the Auditor of State may direct.

Revenue on
dogs.

SEC. 236. The revenue received from the tax on dogs in each township shall be set apart by the County Auditor at such annual settlement, and the same shall be paid over by the County Treasurer to the proper Township Trustee. The sums so collected and received in each township are hereby declared to be a fund for the payment of damages sustained by the owners of sheep maimed or killed by dogs within such township; and each Township Trustee is directed and required to hold the same for such purposes: *Provided, however,* That when it shall so happen on the first Monday of March in each year, in any township, that the said fund shall accumulate to an amount exceeding fifty dollars over and above orders drawn against the same, then the surplus over said sum of fifty dollars shall be expended by such Trustee for the use of the school revenue of the township. (See Acts 1897, page 178; also in back of this pamphlet.)

The act of March 5, 1891, being Sections 2856 to 2864, R. S. 1894, repealed the acts of March 7, 1883, and of April 8, 1885, the same Sections, 2848 to 2855, R. S. 1894, relating to the taxation of dogs and the disposition of such tax, and such acts were not revived by the tax law of 1891, and under Section 236 of such act, being Section 8654, R. S. 1894 (Section 236 above), Township Trustees are entitled to receive the dog tax collected. *Plover v. State ex rel.*, 133 Ind. 453; *Taggart v. State ex rel.*, 142 Ind. 698.

An action may be maintained against a school township by a city located therein for the recovery of surplus dog tax funds wrongfully appropriated by the Township Trustee to the use and benefit of the school township. *Center School Township v. State ex rel. Board, etc.*, 150 Ind. 168.

SEC. 237. Whenever it shall appear to the Board doing Treasurer county business in any of the counties of the State, by clear and sufficient proof, that by reason of erroneous charges in the tax duplicate, or from any other cause, the Treasurer of such county has paid and accounted to said Board for more money than was justly due from him on account of county revenue, said Board doing county business shall direct the Auditor to credit said Treasurer with the sum or sums thus improperly paid, and order the same to be refunded out of the county treasury.

This section only applies to individual cases, and not to cases where there has been an illegal tax assessed against the taxpayers generally. 36 Ind. 175.

The claim of a treasurer to have money refunded to him that he has paid by mistake is barred in six years. 82 Ind. 172.

This section applies only to county funds, and the county can not be held liable for other funds paid into the county treasury. 129 Ind. 562.

SEC. 238. Whenever similar improper or erroneous Treasurer payments have been made by any County Treasurer to the State Treasurer, the Board doing county business shall direct the Auditor to certify said improper or erroneous payments to the Auditor of State, under his seal of office, who shall audit and allow the same as a claim against the Treasurer, and the Treasurer shall pay the same out [of] any moneys not otherwise appropriated.

When the Auditor of State refuses to allow a claim properly presented, he may be compelled by mandate to do so. 90 Ind. 16.

The Auditor of State can not contest the correctness of the order of the county board except on the ground of fraud or mistake. 90 Ind. 16.

SEC. 239. The provisions of the preceding sections shall extend to persons who have been, as well as those who are now, and shall hereafter be, County Treasurers.

SEC. 240. Annually, in the month of November, before the delinquencies of a former year or years are carried upon the current year's duplicate, it shall be the duty of the County Auditor and Treasurer to review and carefully examine the list of delinquencies; all such delinquencies

Treasurer
overpaying
State Treas-
urer, pro-ceed-
ing.

Provisions
apply to all
County
Treasurers.

Delinquencies
omitted from
duplicates.

as by reason of removal from the State, leaving no property, or dying, leaving no property, and all delinquencies which in the judgment of said Auditor and Treasurer, from any other cause, there is no reasonable probability of being collected shall be omitted from the current year's duplicate.

Validity of assessments not affected.

SEC. 241. Any failure to deliver the Treasurer's or Assessor's books within the time required by this act, or to make any official certificate within the time required by this act, shall in no way affect the validity of the assessment and levy or collection of taxes, but in case of such failure, the assessment and levy of taxes and the proceedings to collect taxes, shall be held to be as valid and binding [binding] as if said books had been delivered at or within the time required by law.

Auditor of State to prescribe forms.

SEC. 242. It shall be the duty of the Auditor of State to make out and forward to each County Auditor, from time to time, for the use of such Auditor and other officers, suitable forms and instructions, and all such instructions shall be strictly complied with by the officers in the performance of their respective duties. He shall give his opinion and advice on all questions of doubt, as to the true intent and meaning of the provisions of this act.

Uncollected tax added.

SEC. 243. If the tax on any property liable to taxation is prevented from being collected for any year or years, by reason of any erroneous proceedings or other cause, or has not heretofore been assessed, the same shall be assessed as in this act provided, and the amount of such tax which such property should have paid, shall be added to the tax on such property for the next succeeding year.

Uniform system of book-keeping.

SEC. 244. It shall be the duty of the Auditor of State to order and enforce a correct, and, as far as practicable, uniform system of book-keeping by the County Treasurers and Auditors, so as to afford a suitable check upon their mutual action and insure the thorough supervision and safety of State, county and other funds.

Copies of act, distribution.

SEC. 245. The Auditor of State shall, from time to time, whenever he shall find it necessary, cause to be printed, at the expense of the State, a sufficient number of copies of this act to furnish one copy to each Township Assessor, County Assessor, Treasurer, Auditor and Commissioner within this State, and shall transmit to each County Auditor a sufficient number for his county. Every County Auditor receiving such copies shall immediately distribute the same to the persons entitled thereto. The Auditor of State shall also furnish the several Township

Assessors, County Assessors, Auditors and Treasurers, with all such forms and instructions as he may wish them to pursue in the performance of the duties required by this act. And in preparing such forms for the returns to be made by County Auditors, and for the settlement sheets of County Treasurers, he shall require them to separately show the amount collected and paid in on account of poll-tax.

Forms and instructions.

SEC. 246. In all cases where school lands have been sold and a certificate has been issued to the purchaser or entered or recorded in the proper office or otherwise and the purchaser has entered into possession and paid a part or the whole of the purchase-money, or could have entered into occupancy, such lands shall be deemed and held as having been sold so as to make them liable to taxation, within the meaning of the law, as fully and completely as they would have been had a deed been made and delivered, and the fee had passed to the purchaser; and all appraisements of land so sold, and all assessments of the same for taxes, and all levies and collections of taxes thereon heretofore made, shall be, and are hereby legalized and declared to be lawful and valid, and shall in nowise be subject to question by reason of such sale not having been consummated by execution and delivery of deed. But whenever any Treasurer fails to collect any delinquent taxes for any year, and the same is carried over to the next year's duplicate, together with all penalties and interest, such Treasurer shall not be entitled to any fee for collecting the delinquent part of said duplicate, more than he is entitled to by law for collecting the duplicate of the current year.

School land assessments legalized.

SEC. 247. No Treasurer shall refund any taxes paid, nor shall any Board of County Commissioners authorize the refunding or repayment of any taxes so levied or collected, nor shall any action be commenced or maintained in any Court in this State, nor shall any Court have jurisdiction to recover taxes so levied and collected as being illegal by reason of such lands not being sold in any case contemplated in the preceding section.

Treasurer not to refund.

This section took away the right to have taxes erroneously levied and collected from school lands refunded, unless the claim was reduced to judgment before the enactment of this section. 58 Ind. 244.

[As amended February 27, 1901.]

Section 248. Whenever at any time before the 1st day of April, 1902, it shall appear to the joint satisfaction of the County Auditor, the County Treasurer and the County Assessor that any tract of land, or city, or town, or village lot heretofore assessed with State and county taxes, and

May compromise taxes.

heretofore unsold for taxes, is not worth the amount of such taxes, interest and costs, they shall jointly proceed to appraise such tract of land or lot at its true cash value, and thereupon it shall be lawful for said Auditor, Treasurer and Assessor to compromise said taxes assessed up to the 1st day of April, 1901, with the owner of such tract or lot, for such sum in cash as may seem advantageous to the county and State; and such proposed compromise shall be at once reported by the County Auditor to the Auditor of State, and if approved by him under his hand and seal of office, and not otherwise, the same shall be valid and effectual if the amount thereof is paid to the County Treasurer before the 1st day of May, 1902.

Certificate of compromise.

SEC. 249. As soon as such payment is made, a certificate of satisfaction and redemption shall be issued by the County Treasurer, attested by the signature and seal of the County Auditor, and delivered to such owner, which certificate shall be valid and effectual to release said land or lot from the lien of all State and county taxes, penalties and costs due thereon up to the first day of April, 1891, and [the] sum so paid in compromise shall be distributed to the State and county in the proportion that the amount received bears to the whole amount assessed and charged against such tract or lot.

[As amended 1899. In force March 6, 1899.]

Three years' delinquency compromise.

SEC. 250. Whenever, before the 1st day of January, 1901, the owner of any tract of land, or city, town or village lot, heretofore assessed with State and county taxes, and unsold for taxes, which have been continuously delinquent for at least three years or more before the taking effect of this act, offers to the County Treasurer to pay in cash the full amount of such taxes, with interest thereon at the rate of six per cent. per annum, from the day each installment of tax became due and payable, without the penalty, costs and charges thereon, and it appears to the joint satisfaction of the County Auditor, Treasurer and Assessor, that it will be more advantageous to the county and State to accept such offer, than to proceed against such lands or lots, they shall at once jointly report the offer with their opinion, to the Auditor of State, and if he notifies the County Auditor, under his hand and seal of office, that he deems it advantageous to the county and State to accept such offer, it shall thereupon be the duty of the County Treasurer to accept such offer and to receive the amount of such taxes and interest without the penalty, costs and charges.

SEC. 251. As soon as such payment is made the certificate of satisfaction and redemption shall be issued by the County Treasurer, attested by the signature and seal of the County Auditor, and delivered to such owner, which certificate shall be valid and effectual to release said land or lot from the lien of all State and county taxes, penalties and costs due thereon up to the first day of April, 1891, and such sum so paid shall be distributed to the State and county in proportion that the amount received bears to the whole amount assessed and charged against such tract or lot.

Certificate of redemption.

SEC. 252. The privilege to compromise and pay, permitted in the foregoing section, shall not extend beyond the first day of April, 1892, and the provisions of said sections shall apply to municipal taxes in cities and incorporated towns, and in cities the Treasurer, Clerk and Chairman of the Finance Committee shall perform the same duties as are now enjoined in said sections, and the Mayor shall perform the duties required of Auditor of State, and in incorporated towns the Board of Trustees shall have full power to perform the duties in said sections enjoined upon said officers as aforesaid.

Limit of compromise. Cities and towns may compromise.

SEC. 253. All liens for taxes, and all penalties, and any right to redeem from tax sales, accrued under former laws, and existing at the time of the passage of this act are hereby continued in force and may be enforced under the provisions of this act and all suits and proceedings now pending for collection of taxes under former and existing laws shall be continued to a final termination, the same as if this act had not been passed.

Former liens and penalties continued in force.

The repeal of a statute under which taxes are levied puts an end to the right to collect the same, unless the repealing statute contains a saving clause. 77 Ind. 316.

This section preserves the right of a purchaser at an invalid tax sale to enforce a lien on the property for his purchase-money. 96 Ind. 291.

SEC. 254. Cities shall be governed by the provisions of this law, in regard to the matters embraced therein, so far as the same are applicable, and the duties required by the terms of this act to be done by the county officers, shall be performed by the corresponding officers of each city in regard to the assessment and collection of taxes, and all matters pertaining thereto: *Provided*, That all city taxes shall be paid on or before the third Monday in April of each year, unless the Common Council shall, by ordinance or resolution, determine otherwise, as provided by law: *And, provided, further*, That the office of City Assessor, Office of City Auditor, and the City Board of Equalization are hereby abolished.

Provisions of this law to apply to cities.

Office of City Assessor, etc. abolished.

and the assessment of real and personal property, as made and returned by the Township Assessor, shall serve as the assessment for city purposes, and the proper city officers shall have access to the Assessor's books and to the tax duplicates in the County Auditor's office, for the purpose of transcribing therefrom a list of the property assessed, as the same shall have been equalized by the Board of Review and the State Board of Tax Commissioners.

Clerks of cities are authorized to give notice to persons whose property has been omitted to be assessed for municipal purposes, and to assess such omitted property, such clerks having all the powers in that respect as are conferred by the general tax law on County Auditors. *City of Delphi v. Bowen*, 138 Ind. 255.

False swearing.

SEC. 255. Any person who, under any of the proceedings required or permitted by this act, shall willfully swear falsely, shall be guilty of perjury and subject to all its penalties.

False assessment, penalty.

SEC. 256. Any Assessor or member of a Board of Review, or of a Board of Tax Commissioners, who shall willfully assess any property at more or less than [than] what he believes to be its true cash value, as the same is defined in this act, shall be guilty of a misdemeanor, and on conviction thereof he shall be punished by a fine not exceeding three hundred dollars, or by imprisonment in the county jail not more than one year, or both, in the discretion of the court.

Failure to perform duty, penalty.

SEC. 257. Any officer who shall willfully neglect or refuse to perform any of the duties imposed on him by this act, when no other provision is made herein, be guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two hundred dollars, or both, in the discretion of the Court, and shall be liable to any person injured thereby to the full extent of the damage sustained.

Schedule, change in form.

SEC. 258. The State Board of Tax Commissioners is hereby authorized to prepare for the use of Assessors a more complete and perfect form of "schedule of property" than that set out in section 53 of this act, with a view of securing a full assessment of all the property of the State; and all County Auditors are directed to use such form in preparing blanks for the use of Assessors. Said Board is also authorized to prepare in like manner a new form of tax receipt for the use of County Treasurers, which form of receipt, when so prepared, shall be used by all County

Tax receipt, form of.

Treasurers: *Provided*, That for the assessment and collection of taxes for the year 1891, the forms heretofore in use may be continued as far as practicable, subject, however, to all provisions of this act.

SEC. 259. All laws and parts of laws within the pur- ^{Laws repealed.} view of this act, including "An act to render uniform the assessments of personal property in the several townships of the different counties," approved March 8, 1889, are hereby repealed.

SEC. 260. Inasmuch as an emergency exists, this act ^{Emergency.} shall take effect and be in force from and after its passage.

TELEGRAPH, TELEPHONE, PALACE CAR, SLEEPING CAR, EXPRESS AND FAST FREIGHT, ASSOCIATIONS, COMPANIES AND CORPORATIONS, ETC

AN ACT supplementary to and amendatory of an act entitled "An act concerning taxation, repealing all laws in conflict therewith and declaring an emergency," approved March 6, 1891, and providing for the taxation of telegraph, telephone, palace car, sleeping car, drawing room car, dining car, express and fast freight, joint stock association companies, copartnerships and corporations transacting business in the State of Indiana, repealing Sections 68, 69, 70 and 71 of said act and all laws in conflict therewith, and declaring an emergency.

[Approved March 6, 1893.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That any joint stock association, company, copartnership or corporation, whether incorporated under the laws of this State or of any other State, or of any foreign nation, engaged in transmitting to, from, through, in or across the State of Indiana, telegraphic messages shall be deemed and held to be a telegraph company, and every such telegraph company shall, annually, between the first day of April and the first day of June, make out and deliver to the Auditor of State a statement verified by the oath of the officer or agent of such company making such statement with reference to the first day of April next preceding, showing:

First. The total capital stock of such association, company, copartnership or corporation. ^{Annual statement by, to Auditor of State.} ^{What to show.}

Second. The number of shares of capital stock issued and outstanding, and the par or face value of each share.

Third. Its principal place of business.

Fourth. The market value of said shares of stock on the first day of April next preceding, and if such shares have no market value, then the actual value thereof.

Fifth. The real estate, structures, machinery, fixtures and appliances owned by said association, company, copartnership or corporation and subject to local taxation within the State, and the location and assessed value thereof in each county or township where the same is assessed for local taxation.

Sixth. The specific real estate, together with the permanent improvements thereon, owned by such association, company, copartnership or corporation, situate outside the State of Indiana and not directly used in the conduct of the business, with a specific description of each such piece, where located, the purpose for which the same is used and the sum at which the same is assessed for taxation in the locality where situated.

Seventh. All mortgages upon the whole or any of its property, together with the dates and amounts thereof.

Eighth. (a). The total length of the lines of said association or company.

(b). The total length of so much of their lines as is outside the State of Indiana.

(c). The length of the lines within each of the counties and townships within the State of Indiana.

The act of March 6, 1892, being Sections 8478 to 8480 R. S. 1894, providing for the assessment of the property of telegraph, telephone and sleeping car companies, is constitutional, and such is to be construed in connection with and as a part of the general law of 1891, providing for the assessment of property for taxation. Western Union Tel. Co. v. Taggart, 141 Ind. 281.

Telephone company, definition of.

Annual statement by, to Auditor of State.

What to show.

SEC. 2. Every telephone company doing business in this State, whether incorporated under the laws of this State or of any other State, or of any foreign nation, shall, annually, between the first day of April and the first day of June, make out and deliver to the Auditor of State a statement, verified by the oath of the officer or agent of such company making such statement, with reference to the first day of April next preceding, showing:

First. The total capital stock of such association, company, copartnership or corporation.

Second. The number of shares of capital stock issued and outstanding, and the par or face value of each share.

Third. Its principal place of business.

Fourth. The market value of said shares of stock on the first day of April next preceding, and if such shares have no market value, then the actual value thereof.

Fifth. The real estate, structures, machinery, fixtures and appliances owned by said association, company, copartnership or corporation and subject to local taxation

within the State, and the location and assessed value thereof in each county or township where the same is assessed for local taxation.

Sixth. The specific real estate, together with the permanent improvements thereon, owned by such association, company, copartnership or corporation, situate outside the State of Indiana and not used directly in the conduct of the business, with a specific description of each piece, where located, the purpose for which the same is used and the sum at which the same is assessed for taxation in the locality where situated.

Seventh. All mortgages upon the whole or any of its property, together with the dates and amounts thereof.

Eighth. (a). The total length of the lines of said association or company.

(b). The total length of so much of their lines as is outside the State of Indiana.

(c). The length of the lines within each of the counties and townships within the State of Indiana.

The act of March 6, 1893, being Sections 8478 to 8480 R. S. 1894, providing for the assessment of the property of telegraph, telephone and sleeping car companies, is constitutional, and such act is to be construed in connection with and as a part of the general law of 1891, providing for the assessment of property for taxation. Western Union Tel. Co. v. Taggart, 141 Ind. 281.

SEC. 3. Every joint stock association, company, copartnership or corporation incorporated or acting under the laws of this or any other State, or any foreign nation engaged in conveying to, from, through, in or across this State, or any part thereof, money packages, gold, silver plate, merchandise, freight or other articles, under any contract, express or implied, with any railroad company, or the managers, lessees, agents or receivers thereof, provided such joint stock association, company, copartnership or corporation is not a railroad company, shall be deemed and held to be an express company within the meaning of this act, and every such express company shall, annually, between the first day of April and the first day of June, make out and deliver to the Auditor of State a statement, verified by the oath of the officer or agent of such association, company, copartnership or corporation making such statement with reference to the first day of April next preceding, showing:

First. The total capital stock or capital of said association, company, copartnership or corporation.

Second. The number of shares of capital stock issued and outstanding, and the par or face value of each share,

Express companies, definition of.

and in case no shares of capital stock are issued, in what manner the capital thereof is divided, and in what manner such holdings are evidenced.

Third. Its principal place of business.

Fourth. The market value of the said shares of stock on the first day of April next preceding, and if such shares have no market value, then the actual value thereof. And, in case no shares of stock have been issued, state the market value, or the actual value, in case there is no market value, of the capital thereof and the manner in which the same is divided.

Fifth. The real estate, structures, machinery, fixtures and appliances owned by said association, company, copartnership or corporation, and subject to local taxation within the State of Indiana, and the location and assessed value thereof in each county or township where the same is assessed for local taxation.

Sixth. The specific real estate, together with the improvements thereon, owned by said association, company, copartnership or corporation situate outside the State of Indiana, and not used directly in the conduct of the business, with a specific description of each piece, where located, the purpose for which the same is used and the sum at which the same is assessed for taxation in the locality.

Seventh. All mortgages upon the whole or any part of its property, together with the dates and amounts thereof.

Eighth. (a). The total length of the lines or routes over which such association, company, copartnership or corporation transports such merchandise, freight or express matter.

(b). The total length of such lines or routes as are outside the State of Indiana.

(c). The length of such lines or routes within each of the counties and townships within the State of Indiana.

In the assessment of Express Companies for taxation the State Board of Tax Commissioners is not confined for information to the statements furnished by such companies pursuant to the statute, but resort may be had to other means of information. *State v. Adams Ex. Co.*, 144 Ind. 549.

[As amended Act March 4, 1901. In force from date.]

Sleeping-car
companies.
definition of.

Section 4. Every joint stock association, company, copartnership, or association incorporated or acting under the laws of this or any other State, or of any foreign nation, and conveying to, from, through, in or across this State or any part thereof passengers or travelers, or freight in

palace cars, drawing-room cars, sleeping cars, dining cars or chair cars, oil cars, refrigerator cars, fast freight cars or cars for the transportation of horses, cattle, hogs, sheep, or any other kind of freight whatever, under any contract, express or implied, with any railroad company or the managers, lessees, agents or receivers thereof, shall be deemed and held to be a sleeping car company, for the purposes of this act; and every such sleeping car company doing business in this State shall annually, between the first day of April and the first day of June, make out and deliver to the Auditor of State a statement, verified by the oath of the officer or agent of such company making such statement, with reference to the first day of April next preceding, showing:

First. The total capital stock of such association, company, copartnership or corporation. Contents of statement.

Second. The number of shares of capital stock issued and outstanding, and the par or face value of each share.

Third. Its principal place of business.

Fourth. The market value of said shares of stock on the first day of April next preceding, and if such shares have no market value then the actual value thereof.

Fifth. The real estate, structures, machinery, fixtures and appliances owned by said association, company, copartnership or corporation, and subject to local taxation within the State, and the location and assessed value thereof in each county or township where the same is assessed for local taxation.

Sixth. The specified real estate together with the permanent improvements thereon owned by such association, company, copartnership or corporation situate outside the State of Indiana and not used directly in the conduct of the business, with a specific description of each such piece, where located, the purpose for which the same is used, and the sum at which the same is assessed for taxation in the locality where situated.

Seventh. All mortgages and where recorded and the names and residences of the holders of the same upon the whole or any of its property, together with the franchises and amounts thereof.

Eighth. (a) The total length of the main lines of all the railroad companies over which said cars are run; (b) the total length of so much of the main lines of the railroad companies over which said cars are run as is outside the State of Indiana; (c) the length of the lines of said railroad companies over which said cars are run within each of the counties and townships within the State of Indiana: *Provided*, That where the railroads over which said lines run have double tracks, or a greater number of tracks than a single track, the statement shall only give the mileage as though such tracks were but a single track; and in case the Auditor of State shall require it, such statement shall show the number of miles of each or any particular railroad system or division in detail.

[Act March 4, 1901.]

Statement by
owner of pipe
lines.

Section 4½. Every joint stock association, company, copartnership, or association, whether incorporated under the laws of this State, or of any other State, or of any foreign nation, which owns a pipe line or lines not wholly situate in any one county in the State of Indiana, whether such pipe lines be used for the transmission of oil, natural or artificial gas, whether the same be for illuminating or fuel purposes, or for any other purpose, or steam for heat or power, or for the transmission of power, or for the transmission of articles by pneumatic or other power, shall be deemed and held to be a pipe line company, and every such pipe line company shall annually, between the first day of April and the first day of June, make out and deliver to the Auditor of State a statement, verified by the officer or agent of such company making such statement with reference to the first day of April next preceding, showing:

Kind of
statement.

First. The total capital stock or shares of such association, company, copartnership or corporation.

Second. The number of shares of capital stock issued and outstanding and the par or face value of each share.

Third. Its principal place of business.

Fourth. The market value of said shares of stock on the first day of April next preceding, and if such shares have no market value, then the actual value thereof.

Fifth. The real estate, structures, machinery, fixtures and appliances owned by said association, company, copartnership or corporation, and subject to local taxation within the State, and the location and assessed value thereof in

each county or township where the same is assessed for local taxation.

Sixth. The specific real estate, together with the permanent improvement thereon, owned by said association, company, copartnership or corporation situate outside the State of Indiana, and not directly used in the conduct of the business, with specific description of each such piece, where located, the purpose for which the same is used, and the sum at which the same is assessed for taxation in the locality where situated.

Seventh. All mortgages and where recorded and the names and residences of holders of the same upon the whole or any part of its property, together with the debts and amounts thereof.

Eighth. A schedule of all other property owned by said associations, companies, copartnerships or corporations other than real estate, located without the State of Indiana, and the assessed value thereof, if any; also a schedule of all other property, including the length, size and value of lines, tanks and capacities thereof, and all other property owned by said associations, companies, copartnerships or corporations, other than real estate, as set out in clause fifth of this section, located within the State of Indiana, with the location and value thereof.

SEC. 5. Upon the filing of such statements the Auditor of State shall examine them, and each of them, and if he shall deem the same insufficient, or in case he shall deem that other information is requisite, he shall require such officer to make such other and further statements as said Auditor of State may call for. In case of the failure or refusal of any association, company, copartnership or corporation to make out and deliver to the Auditor of State any statement or statements required by this act, such association, company, copartnership or corporation shall forfeit and pay to the State of Indiana one hundred (\$100) dollars for each additional day such report is delayed beyond the first day of June, to be sued and recovered in any proper form of action, in the name of the State of Indiana, on the relation of the Auditor of State, and such penalty, when collected, shall be paid into the general fund of the State.

Auditor of
State may re-
quire further
information.

Penalty for
failure to
report.

SEC. 6. Upon the meeting of the State Board of Tax Commissioners for the purpose of assessing railroad and other property, said Auditor of State shall lay such state-

State Board of
Tax Commis-
sioners to
assess.

May require
attendance of
officers, etc.

ments, with such information as may have been furnished him, before said Board of Tax Commissioners, who shall thereon value and assess the property of each association, company copartnership or corporation in the manner hereinafter set forth, after examining such statements and after ascertaining the value of such properties therefrom, and from such other information as they may have or obtain. For that purpose they may require the agents or officers of said association, company, copartnership or corporation to appear before them with such books, papers or statements as they may require, or they may require additional statements to be made to them, and may compel the attendance of witnesses in case they shall deem it necessary to enable them to ascertain the true cash value of such property.

[As amended by Act March 4, 1901.]

Duty of State
Board.

Section 7. Said State Board of Tax Commissioners shall first ascertain the true cash value of the entire property owned by said association, company, copartnership or corporation from said statements, or otherwise, for that purpose taking the aggregate value of all the shares of capital stock in case such shares have a market value, and in case they have none, taking the actual value thereof, or the capital of said association, company, copartnership or corporation in whatever manner the same is divided in case no shares of capital stock have been issued: *Provided, however,* That in case the whole or any part of the property of such association, company, copartnership or corporation shall be encumbered by a mortgage or mortgages, such board shall ascertain the true cash value of such property by adding to the market value of the aggregate shares of stock, or to the value of the capital, in case there shall be no such shares, the aggregate amounts of such mortgage or mortgages, and the result shall be deemed and treated as the true cash value of the property of such corporation.

Proviso.

True cash
value, how
ascertained.

Assessed value
of real estate.

Such Board of Tax Commissioners shall, for the purpose of ascertaining the true cash value of the property within the State of Indiana, next ascertain from such statements, or otherwise, the assessed value for taxation in the localities where the same is situated, of the several pieces of real estate situate without the State of Indiana, and not specifically used in the general business of such association, company, copartnership or corporation: which said assessed values for taxation shall be by said board deducted from the gross value of the property, as above ascertained. Said

Value of real
estate
deducted.

State Board of Tax Commissioners shall next ascertain and assess the true cash value of the property of such associations, companies, copartnerships, corporations or persons within the State of Indiana, by taking the proportion of the whole aggregate value of said associations, companies, copartnerships, corporations or person, as above ascertained, after deducting the assessed value of such real estate without the State, which the length of lines of said associations, companies, copartnerships, corporations or person in the case of telegraph and telephone companies within the State bears to the total length of lines thereof, and in the case of palace, drawing-room, sleeping, dining, chair car, oil car, refrigerator car companies, and companies owning cars for the transmission of fast freight, horses, cattle, hogs, sheep, or any other freight of any description, the proportion shall be the proportion of such aggregate value of such deductions, which the length of lines within the State over which said cars are run bears to the length of the whole lines over which said cars are run, and in the case of express companies the proportion shall be in the proportion of the whole aggregate value after such deductions, which the length of lines or routes within the State of Indiana bears to the whole length of the lines or routes of such associations, companies, copartnerships or corporations, and in the case of pipe line companies the proportion shall be that proportion of the whole aggregate length, size and value of its pipe lines and other property, after such deductions, which the length, size and value of the said pipe lines and other property within the State of Indiana bears to the whole length, size and value of the said line and other property of such association, and such amount so ascertained shall be deemed and held as the entire value of the property of said associations, companies, copartnerships or corporations within the State of Indiana. From the entire value of the property within the State so ascertained there shall be deducted by the said board the assessed value for taxation of all the real estate, structures, machinery and appliances within the State and subject to local taxation in the counties and townships, as hereinbefore described in item No. 5 of sections 1, 2, 3, 4 and 4½ of this act, and the residue of such value so ascertained, after deducting therefrom the assessed value of such local properties, shall be by said board assessed to said association.

The State Board of Tax Commissioners, in the case of State Board pipe line associations, companies, copartnerships or corporations, shall distribute and apportion to the different coun-

Value of
machinery,
etc., deducted.

State Board
must
apportion to
counties, etc.

ties, townships, cities or towns such residue, in the proportion that the length, size and value of the lines in each of said counties, townships, cities or towns, bears to the total assessed value in the State.

The presumption is that the State Board of Tax Commissioners in fixing the valuation of so much of a telegraph line as was within the State, deducted from the total value of all interstate property such values of extra State property, if any, as left the remaining property, within and without the State, as near as may be, of equal proportional value. *Western Union Telegraph Company v. Taggart, Auditor, 141 Ind. 282.*

A statute requiring the whole of the line of a telegraph company running into or through a State to be taken into consideration in ascertaining the value of that portion within this State, is valid and not open to the objection that it is a taxation of property in another State, nor that the value of the line in another State is added to the value of that portion of the line in this State. *Western Union Telegraph Company v. Taggart, Auditor, 141 Ind. 281.*

To ascertain
value per mile.

SEC. 8. Said State Board of Tax Commissioners shall thereupon ascertain the value per mile of the property within the State by dividing the total value, as above ascertained, after deducting the specific properties locally assessed within the State, by the number of miles within the State, and the result shall be deemed and held as the value per mile, of the property of such association, company, copartnership or corporation within the State of Indiana.

low value
distributed to
counties.

SEC. 9. Said State Board of Tax Commissioners shall thereupon, for the purpose of determining what amount shall be assessed by it to said association, company, copartnership or corporation in each county in the State through, across, into or over which the line of said association, company, copartnership or corporation extends, multiply the value per mile, as above ascertained by the number of miles in each such county, as reported in said statements or as otherwise ascertained, and the result thereof shall be, by said Board, certified to the Auditor of State, who shall thereupon certify the same to the Auditors, respectively, of the several counties through, into, over or across which the lines or routes of said association, company, copartnership or corporation extend, and such Auditors shall apportion the amount certified for their counties, respectively, among the several townships into, through, over or across which such lines or routes extend, in proportion to the length of the lines in such townships.

Result certified
to Auditor
of State, who
shall certify to
County
Auditor.

County
may require
audit to report.

SEC. 10. To enable said County Auditors to properly apportion the assessments between the several townships, they are authorized to require the agent of said association or company to report to them, respectively, under oath, the length of the lines in each township, and the Auditor shall

thereupon add to the value, so apportioned, the assessed valuation of the real estate, structures, machinery, fixtures and appliances situated in any township and extend the taxes thereon upon the duplicates as in other cases.

SEC. 11. In case any such association, copartnership or corporation, as named in this supplemental and amendatory act, shall fail or refuse to pay any taxes assessed against it in any county or township in the State, in addition to other remedies provided by law for the collection of taxes, an action may be prosecuted in the name of the State of Indiana by the Prosecuting Attorneys of the different judicial circuits of the State on the relation of the Auditors of the different counties of the State, and the judgment in said action shall include a penalty of fifty per cent. of the amount of taxes so assessed and unpaid, together with reasonable attorney's fees for the prosecution of such action, which action may be prosecuted in any county into, through, over or across which the line or route of any such association, copartnership, company or corporation shall extend, or in any county where such association, company, copartnership or corporation shall have an office or agent for the transaction of business. In case such association, company, copartnership or corporation shall have refused to pay the whole of the taxes assessed against the same by said State Board of Tax Commissioners, or in case such association, company, copartnership or corporation shall have refused to pay the taxes, or any portion thereof, assessed to it in any particular county or counties, township or townships, such action may include the whole or any portion of the taxes so unpaid in any county or counties, township or townships, but the Attorney-General may, at his option, unite in one action the entire amount of the tax due, or may bring separate actions in each separate county or township, or join counties and townships, as he may prefer.

All collections of taxes for or on account of any particular county made in any such suit or suits shall be, by said Auditor of State, accounted for as a credit to the respective counties for or on account of which such collections were made by said Auditor of State at the next ensuing settlement with such county, but the penalty so collected shall be credited to the general fund of the State; and upon such settlement being made the Treasurers of the several counties shall, at their next settlements enter credits upon the settlement with such county report the amount so received proper duplicates in their officers' [offices], and at the next by him in his settlement with the State, and proper entries shall be made with reference thereto: *Provided, however,* That in any such action the amount of the assessment fixed by said State Board of Tax Commissioners and apportioned

Auditor of
State to credit
collections to
counties.

Penalty to be
credited to
general fund.

to such county, or apportioned by County Auditor to any particular township, shall not be converted.

Laws repealed.

Sec. 12. Inasmuch as the provisions of this act are intended to take the place of sections 68, 69, 70 and 71 of the act entitled "An act concerning taxation, repealing all laws in conflict therewith and declaring an emergency," approved March 6, 1891, such sections and each of them, and all other laws and parts of laws in conflict with this act are hereby repealed: *Provided*, That all moneys now due the State, or which may become due on the first day of April, 1893, or at any other time, on account of any assessment or charge made against any of the joint stock associations, persons, companies or corporations on account of per cents, on gross or net earnings for the preceding year or years, and all penalties and charges thereon, growing out of any failure to make reports or payments, as now required by the provisions of the aforesaid repealed sections, shall be paid and collected under the provisions of said repealed sections, the same as if said sections were not repealed, and any suit brought for the recovery of such money, taxes or penalties, shall be begun under the provisions of said repealed sections and prosecuted to final judgment thereunder, in all respects the same as if said sections were continued in full force; and it is hereby expressly provided that all the rights of the State accrued, or which may accrue, on the first day of April, 1893, on account of receipts for the preceding years are hereby saved from the operation of the aforesaid repealing clause.

Emergency.

Sec. 13. Whereas, an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage.

TAXING OF DOGS.

AN ACT regulating the taxing of dogs and for the protection of sheep, cattle, horses, swine and other live stock and fowls; to provide penalties for its violation; to repeal all laws in conflict.

[Approved March 6, 1897.]

Do: tax paid to assessor in advance.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Township Assessor shall be required after assessing the property of each property holder of his township as now required by law, to make diligent inquiry as to the number of dogs owned harbored or kept by the person so assessed. And such person as assessed shall pay immediately to the Township Assessor the sum of one dollar for each male dog or spayed female dog. And the sum of two dollars for each additional male dog or spayed female dog. And the sum of three dollars for each female dog (unspayed) so owned, harbored or kept.

SEC. 2. The Township Assessor shall give to each person a receipt for such money paid him, which shall be designated for dog tax, which receipt shall show the person's name who owns, harbors or keeps the dog, the amount paid, and the number, description and kind of dogs paid for, and whether male or female, and the number of each, which receipt shall relieve the person or persons owning, keeping or harboring such dogs for the current year, extending one year from its date or until the next regular township assessment. Such Township Assessor shall keep a record of the person or persons owning dogs and a record of the dogs paid for: And he shall keep a stub record or copy of the receipts given by him for money paid him as dog tax, such stub record shall show the amount paid him. The number of dogs, both male and female, paid for, and the person's name, owning the dogs so paid for. And he shall within five days after the completion of the assessment of his township, each year turn over to the Township Trustee of his township all the records kept by him, relating to the collecting and payment of dog tax, and a copy of all receipts given by him to persons having paid him money as dog tax, and all money received by him as dog tax.

Assessor to give receipt and description.

Tax collected paid over to Trustee.

Sec. 3. He shall report the amount collected by him as dog tax, and turned over to the Township Trustee of his township, to the County Auditor of his county, within three days after making his report to the Township Trustee of his township. The County Auditor shall make a record of the same, and charge the amount against the Township Trustee of the proper township, as receipts from the dog fund.

Report to Auditor.

Sec. 4. Any person who shall keep or harbor any dog, and shall not have paid the Township Assessor the tax as above specified and received his receipt for such payment, shall upon complaint of any resident of the county be subject to a fine of not less than five or more than twenty dollars.

Keeping dog without payment of tax, penalty.

Sec. 5. It shall be the duty of the Township Assessor to keep a record of all dogs that shall not be paid for, by whom owned, harbored or kept, and the number of such dogs and the kind, whether male or female, and he shall report the same to the Township Trustee of his township at the time of making his other report, as above provided, whose duty it shall be to report the same to the Prosecuting Attorney of his county, or district, or his deputy, who shall bring an action before any Justice of the Peace of his county or in the Circuit Court of his County, against such

List of dogs on which tax is unpaid.

Proviso as to person acquiring dog after assessment.

Failure of officer to perform duty, penalty.

False statement by dog owner, penalty.

Keeping of lock-killing dog, penalty.

Harboring dog, tax unpaid, penalty.

Female dog in heat, at large, penalty.

persons, upon conviction thereof, and he shall receive the sum of five dollars for each case so prosecuted and such fee shall be charged as part of the judgment and cost against such person so prosecuted: *Provided*, That if any person shall acquire, own, harbor or keep any dog after the Assessor shall have completed his assessment, he shall report such dog to and pay to the Township Trustee of his township the amount of dog tax as above provided and receive his receipt for the same, which receipt shall exempt him from further payment of dog tax on dogs described in said receipt until the time of the next assessment of his township.

Sec. 6. If any Township Trustee or Township Assessor shall fail to perform the duties as above provided, they shall be liable to a fine of not less than ten nor more than twenty dollars.

Sec. 7. Every person liable to taxation in any township in the State of Indiana, and residing therein when listed for taxation, shall make and subscribe to an oath to the Township Assessor, in which he shall state the number of dogs, spayed and unspayed over the age of three months, owned, kept and harbored by such person, and any person who shall make a false statement to the Assessor or Township Trustee as to the number, kind and sex of such dogs so owned, kept or harbored by him, shall be fined in any amount not exceeding one hundred dollars.

Sec. 8. Any dog that is known to have killed, maimed, chased or worried any sheep, cattle, horses, swine or other live stock, or fowls, unless accompanied by his master or some other person, may be killed by any person and any person who shall own, keep or harbor any dog, after he knows that such dog has killed or maimed, chased or worried any sheep, cattle, horses, swine, or other live stock or fowls, shall be fined in any sum not less than ten nor more than fifty dollars.

Sec. 9. It shall be a misdemeanor for any person who does not hold the Township Assessor's or Township Trustee's receipt, showing that the required tax has been paid for the same, as provided in this act, to keep, harbor, board or feed, or permit any dog to stay about his, her or their premises and upon complaint they shall be liable to a fine in any sum not exceeding ten dollars.

Sec. 10. Any person owning or harboring any female dog, who shall allow such female dog to run at large during any period of rutting or when in heat, shall be fined not less than five nor more than twenty dollars.

Sec. 11. All money derived by the taxing of dogs by the Township Assessor or Township Trustee as provided by this act, shall constitute a fund known as the Dog Fund, which shall be used for the payment of damages sustained by owners of sheep, cattle, horses, swine and other live stock, or fowls killed, maimed or damaged by dogs, within any township of the State of Indiana, each Township Trustee shall collect all fines belonging to his township from the different courts, where such fines have been assessed and paid: *Provided*, That no damage shall be assessed or paid on sheep except where individual damage exists or is shown.

Sec. 12. The owners of sheep, cattle, swine, horses, and other live stock or fowls, killed, maimed or damaged by dogs, shall within ten days from the time thereof, report to the trustee of his township, under oath, in which he shall state the number and age as he believes, and the value of such stock or fowls so killed or damaged, and the damages sustained on account of such stock or fowls killed or maimed, in which affidavit he must be joined by two disinterested and reputable freeholders or householders, and any person or persons who shall make any false statements of such damages, shall upon conviction, be fined in any sum not exceeding one hundred dollars, to which may be added imprisonment in the county jail for any term not exceeding thirty days: *Provided, however*, That no appraisement shall exceed the actual cash value for which such live stock or fowls would have sold for if placed on the market at the time such damage was sustained: *Provided, further*, That if any township trustee deems the appraisement of such live stock or fowls so killed or maimed to be excessive he shall tender to the owner or owners, or credit upon his books such amount which in his judgment is equal to the injuries sustained and if in any action at law by the owners thereof for the recovery of such damages said owner shall fail to recover a judgment exclusive of costs for an amount greater than the amount so tendered the defendant shall recover costs of such suit.

Sec. 13. The trustees shall register all losses in the order in which they are reported: *Provided*, That no person shall receive pay for sheep, horses, cattle, swine or other live stock or fowls killed or maimed by any dog or dogs owned or harbored by himself: *Provided, further*, That the dog fund heretofore collected shall be added to and applied with the fund arising under the provisions of this act. And when it shall so occur on the first Monday of March of any year in any township in the State of In-

Township dog fund.

Report of owner of killed or maimed live stock, etc.

Proviso as to appraisement.

Proviso as to excessive appraisement.

Register of losses.

Proviso as to existing and excess fund.

diana that said fund shall accumulate to an amount exceeding one hundred dollars over and above orders drawn on the same, the surplus aforesaid shall be paid and transferred to the County Treasurer of the county in which such township is located and the fund arising from such surplus from the township of the county shall constitute a county dog fund and shall be distributed among the townships of the county in which the orders drawn against the dog fund exceed the money on hand, this distribution shall be made on the second Monday in March of each year, and if said county dog fund be insufficient to pay for all the live stock or fowls maimed or killed by dogs of all the townships the distribution shall be made in the ratio of the orders drawn against the dog fund of the townships and unpaid and unprovided for, which ratio shall be obtained from the report of the trustees of the townships made to the Auditor of the county, which it is hereby directed shall be made by each Township Trustee of the county upon the first Monday of March of each year, which report shall show all receipts into the dog fund of his township, and all orders drawn against the same in the order in which they were drawn. And when it shall occur upon the second Monday in March of any year that there is a surplus left of the county dog fund after provisions have been made for the payment of all the live stock or fowls killed or maimed, of all the townships of the county, such surplus shall be distributed for the schools of the county in the same manner, the common school revenue of such county is distributed.

Dog roaming
unattended.

SEC. 14. If any dog shall be found roaming over the country unattended by his master or owner, or his owner's agent, it shall be lawful to kill such dog.

Laws repealed.

SEC. 15. All laws or parts of laws in conflict herewith are hereby repealed.

COUNTY ASSESSORS AND THEIR DUTIES.

AN ACT concerning the office of County Assessors, regulating the appointment of persons who may act as deputies, fixing the pay, and limiting the time of service, repealing all laws in conflict therewith, and declaring an emergency.

[Reconsidered and passed over the Governor's veto March 9, 1865.]

Compensation
of County
Assessor.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the County Assessors in the several counties of this State shall receive as compensation

for their services the sum of three (3) dollars per day for the time actually employed by them in the discharge of the duties of their several offices: *Provided*, That in counties of less than ten thousand such assessors shall not charge for or receive pay for more than one hundred and twenty (120) days. In counties of more than ten thousand and less than fifteen thousand such assessors shall not charge or receive pay for more than one hundred and fifty (150) days. In counties of more than fifteen thousand and less than thirty thousand such assessors shall not charge or receive pay for more than one hundred and eighty (180) days. In counties of more than thirty thousand and less than sixty thousand the assessors shall not charge or receive pay for more than two hundred and forty (240) days. In counties of more than sixty thousand such assessors may, if the duties of the offices require it, charge for and receive pay for the entire year: *Provided*, That the provisions of this act shall not apply to counties having a population of more than one hundred thousand.

SEC. 2. It shall be unlawful for any assessor to appoint as his deputy any one akin to him. Qualifications
of Deputy
Assessor.

SEC. 3. No assessor shall receive pay for services rendered by him in excess of the taxes assessed upon the property which shall have been placed upon the tax duplicate by such assessor. Limitation as
to pay.

SEC. 4. The population of the several counties of the State for the purpose of ascertaining the number of days of service to be charged by the assessors of the several counties shall be computed on the eleventh census of the United States of 1890. Population,
how computed.

SEC. 5. All laws and parts of laws in conflict with this act are hereby repealed. Laws repealed.

SEC. 6. Whereas, an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage. Emergency.

FEES OF CERTAIN OFFICERS FOR COLLECTION OF DELINQUENT TAXES.

AN ACT to amend Section 119 of an act entitled "An act fixing the compensation and prescribing the duties of certain State and county officers, fixing certain fees to be taxed in the offices and the salaries of officers therein named, providing for certain employes in certain public offices and fixing their compensation, defining certain duties and liabilities of officers and persons therein named, providing for the distribution of certain moneys, making certain appropriations, declaring certain violations of the provisions of this act to be a misdemeanor and prescribing penalties therefor, providing the time when the same shall take effect as to certain offices therein named, and repealing all conflicting laws," approved March 11, 1895,

[Approved March 6, 1897.]

Section amended.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section 119 of an act entitled "An act fixing the compensation and prescribing the duties of certain State and county officers, fixing certain fees to be taxed in the offices, and the salaries of officers therein named, providing for certain employes in certain public offices and fixing their compensation, defining certain duties and liabilities of officers and persons therein named, providing for the distribution of certain moneys, making certain appropriations, declaring certain violations of the provisions of this act to be a misdemeanor and prescribing penalties therefor, providing the time when the same shall take effect as to certain offices therein named, and repealing all conflicting laws," approved March 11, 1895, be and the same is hereby amended to read as follows:

Treasurer's fee for delinquent taxes

Demand.

Levy and sale.

Section 119. After the third Monday of April the Treasurer shall cause a list to be made of the delinquents, with the amount due from each, and with a separate column headed "Return," which list shall be certified to be correct by the County Auditor. He shall then proceed with such list, which, when so certified, shall be a sufficient authority, and have the same force and effect as an execution, and call either in person or by deputy, upon every person named in the duplicate who is delinquent, and who resides in the county, and he shall make a demand for the amount of such delinquent taxes, and the penalty thereon, of each resident delinquent, and if the taxes and penalty are not paid on such demand, he shall proceed immediately to levy upon sufficient personal property of such delinquent to pay

such taxes, penalty and the cost of sale, and to sell the same in the manner and at the place hereinafter provided. In case such delinquent tax and penalty is paid on demand, such treasurer shall charge and receive from such delinquent, in addition to the taxes and penalty, the sum of twenty-five cents, and where a levy is made, he shall charge and receive, in addition to his other costs, the sum of fifty cents for such demand. When he can find no personal property of such delinquent within the county upon which to levy, after diligent search therefor, he shall make opposite to the name of such persons on said list in the column marked "Return," a special return setting forth the fact that he had made diligent search in the county for personal property of such delinquent, and was unable to find any upon which to levy for the payment of the taxes due thereon, which return shall be *prima facie* evidence of the facts therein cited: *Provided, however*, That nothing in this section shall authorize the treasurer in any county in this State to levy upon or sell for delinquent taxes the household goods of any person, where the household goods of such person do not exceed the value of one hundred dollars, as shown by the assessment list of said person for the year for which said taxes are delinquent. Each County Treasurer shall be allowed, in addition to the salary provided by this act, a commission of six per cent. upon all delinquent taxes collected by him.

No property found.

Exemption.

Treasurer's fee for collecting delinquents.

A County Treasurer whose term of office expires before certain delinquent taxes are paid, can not maintain an action against the Board of Commissioners of the county for the compensation provided by law for the collection of such taxes, although such officer did the greater part of the work which resulted in the collection thereof. *Saint v. Board*, etc., 19 Ind. App. 281.

TERMS OF COUNTY TREASURERS.

AN ACT fixing the time that the term of County Treasurer shall begin in each county in the State of Indiana, repealing all laws and parts of laws in conflict herewith and declaring an emergency.

[Approved March 7, 1897.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the term of County Treasurer shall begin on the first day of January next following the term of the present incumbent.

SEC. 2. All laws and parts of laws in conflict with this act are hereby repealed to the extent of such conflict.

Terms of County Treasurers.

Laws repealed.

Emergency.

SEC. 3. Whereas, an emergency exists for the taking effect of this act, it shall be in force from and after its passage.

DEEDS EXECUTED UPON INVALID TAX SALES.

AN ACT concerning deeds executed upon illegal or invalid tax sales, providing for the release of the lien thereof, and declaring an emergency.

[Approved March 8, 1897.]

Illegal tax deed, lien to be released.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That every person holding a lien upon any real estate in this State by virtue of any illegal or invalid tax deed, shall, upon the payment or tender to him by the owner or any person having an interest in such real estate, of the full amount of his said lien, together with the sum of one dollar and twenty-five cents, and together with any sum that may be due him as an occupying claimant, make, execute and acknowledge before some officer authorized to take acknowledgments of deeds, and deliver to the person making such payment or tender a deed of release, releasing to the owner of such real estate all claims the holder of such invalid tax deed has on such real estate on account of such tax deed; and upon the failure of the holder of such lien to execute such deed of release as herein provided for in this act, he shall be subject to an action in any court of competent jurisdiction to quiet the title of such real estate as against such lien, in favor of the person making such payment or tender, and shall be liable in said action for all costs accruing therein and also for a reasonable fee for the plaintiff's attorney in such action.

Emergency.

SEC. 2. An emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage.

LEVY OF TAXES TO PAY GRAVEL ROAD BONDS.

AN ACT concerning the levy of taxes to pay bonds issued to raise means to construct free turnpike or gravel roads.

[Approved March 4, 1897.]

Preamble.

WHEREAS, Under the provisions of an act of the General Assembly of the State of Indiana, approved March 3, 1893, regulating the construction of free gravel, stone or

other macadamized, roads, it is provided that for the purpose of raising money to pay for the construction of such roads the Boards of County Commissioners shall issue and sell the bonds of the county, and after the sale of such bonds the Boards of County Commissioners are then required to levy taxes to raise money to pay the principal and interest on such bonds; and,

WHEREAS, In some counties such Boards of Commissioners have levied taxes to raise money to pay for such roads, or for such bonds, prior to the sale of such bonds, therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That in all cases where the Boards of County Commissioners of any county under proceedings for the construction of a free gravel, stone, macadamized or free turnpike road, shall have levied taxes to raise money to pay for the construction of such road, or bonds issued to raise money for such purpose, before an actual *bona fide* sale of such bonds shall have been made, and the purchase money therefor paid, and before such road shall have been made, such levy of taxes shall be regarded as illegal and void and the same shall not be enforced or collected.

Tax levy to pay for road not built or bonds unsold. Illegal.

SEC. 2. It is hereby declared that an emergency exists for the immediate taking effect of this act, and the same shall be in force from and after its passage.

LIMIT OF BONDS FOR THE CONSTRUCTION OF GRAVEL ROADS.

AN ACT to limit the issue of bonds or other evidence of indebtedness for the construction of free gravel or macadamized roads and declaring an emergency.

[Approved February 7, 1896.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be unlawful for any Board of County Commissioners to issue bonds or any other evidence of indebtedness payable by taxation, for the construction of free gravel, or macadamized roads, when the total issue for that purpose, including bonds already issued and to be issued is in excess of four per centum of the total assessed taxable valuation of the property of the township or townships wherein such roads are located or to be located, and all bonds or obligations issued in violation of this act shall be void.

Road bonds, when issue of unlawful.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act it shall be in force from and after its passage.

PROPERTY ADJACENT TO RAILROADS OR HIGHWAYS.

AN ACT to prohibit the assessment to the adjacent property holders of real estate occupied by any railroad company or public highway, repealing all laws in conflict therewith, and declaring an emergency.

[Approved March 3, 1897.]

Right of way of railroad or highway not to be assessed to adjacent property.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That all officers engaged in the assessment of property for taxation are hereby prohibited from assessing for taxation, against any adjacent property holder, the real estate occupied by any railroad or any public highway, and no part of the land so belonging to such property holder shall be assessed against him for taxation except the portion beyond the lines of the right of way of the railroad company or the right of way used and occupied as such public highway: *Provided,* That if the assessor and the land owner shall fail to agree on the amount of land contained in such railroad right of way or such public highway, then such land owner to receive the benefit of such exemption shall determine the amount of land in dispute by actual survey and to bear all expenses of the same.

Laws repealed.

Emergency.

SEC. 2. All laws and parts of laws in conflict herewith are hereby repealed.

SEC. 3. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage.

LEVY OF TAXES TO PAY FOR WATER WORKS SYSTEM.

AN ACT authorizing incorporated towns that have heretofore or may hereafter contract with any corporation, person or firm for supplying said town with water; or when any incorporated town has purchased any water-works system within their corporation limits, to levy and collect an annual tax of not more than forty cents on each one hundred dollars' worth of taxable property in said town with which to pay said contract price agreed upon, or the purchase price of said water-works system, and declaring an emergency.

[Approved March 8, 1897.]

Special tax to pay for water-works.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That in all cases where the Board of Trustees of any incorporated town in this State shall, or

have heretofore contracted with any corporation, person or firm for supplying said town with water for fire protection and other purposes, or where any incorporated town, shall, or has heretofore purchased any water-works system located within said incorporated town, then and in either of said cases: *Provided,* Said town has not incurred and shall not hereby be authorized to incur an indebtedness of more than two (2) per cent. of the amount of taxable property of said town as provided in the Constitution of the State of Indiana, the Board of Trustees of said incorporated town are hereby authorized to levy and collect an annual special tax for paying said contract price for said water so furnished or for paying the purchase price of said water-works system of not to exceed forty cents on the one hundred dollars of taxable property within such incorporated town, to be levied and collected as other corporation taxes are levied and collected.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, therefore the same shall be in full force and effect from and after its passage.

POWERS OF INCORPORATED CITIES.

AN ACT prescribing certain powers of incorporated cities.

[Approved March 2, 1897.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That Common Councils of incorporated cities shall have the power to enact and enforce ordinances:

First. To regulate and license clairvoyants, street fakirs and itinerant dealers.

Second. To license, tax and regulate vehicles.

Third. To regulate and control the kind and location of poles used by telegraph, telephone, electric light and street railway companies, within the corporate limits of any such city.

Fourth. To license, tax and regulate branch stores or establishments and department stores and all other concerns established in said cities for temporary business only.

RELIEF OF THE POOR.

AN ACT to amend section thirty-five (35) of an act entitled an act for the relief of the poor, approved June 9, 1852.

[Approved March 8, 1897.]

Relief of poor,
tax levy for.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section thirty-five of an act entitled an act for the relief of the poor, approved June 9, 1852, being section 6099 of the Revised Statutes of 1881, be amended so as to read as follows:

Section 35. The County Auditor of each county shall report to the Board of County Commissioners of his county on the first day of the regular September term of such board, annually, the amount allowed during the preceding year for poor relief and for medical attendance of the poor of each township of the county by the said board; and at the same term the trustee of each township, for the poor of which any such allowances have been made, shall levy a tax on the property of such township to reimburse the county treasury for payments made on such allowances, which taxes shall be collected as other township taxes are collected and shall be paid into the county treasury. If the Trustee of any township shall fail to levy such tax, the Board of County Commissioners shall levy the same.

UNEXPENDED BALANCE OF GRAVEL ROAD TAXES.

(This act is a substitute for Enrolled Act No. 402 House of 1897.)

AN ACT to amend an act entitled "An act authorizing County Treasurers to pay over to Township Trustees any unexpended balance of any fund collected by special levy for the purpose of purchasing gravel roads, or assisting in the construction of railroads, and declaring an emergency, approved March 8, 1897, and declaring an emergency.

[Approved February 24, 1896.]

Unexpended
balance gravel
road, etc., tax.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That, Section 1, of the above entitled act be and the same is hereby amended to read as follows:

Section 1. That whenever any County Treasurer has in his hands, as such officer any unexpended balance of any fund collected from the taxpayers of any township, city or town, by special levy for the purpose of purchasing gravel roads, or assisting in the construction of railroads, such

treasurer is hereby authorized and directed to pay over to be turned over to the trustee of such township, or the trustees of such city or town, to be applied by such trustee to the township fund, and trustees of city or town to their general funds.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, therefore the same shall be in force from and after its passage.

REAL ESTATE IN NEWLY INCORPORATED TOWNS.

AN ACT to authorize the assessment and appraisal of real estate in newly incorporated towns and declaring an emergency.

[Approved March 2, 1893.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That where a town has been or may be hereafter incorporated more than one year prior to the time fixed by law for the assessment and appraisal of real estate for the purposes of taxation, it shall be the duty of the assessor of the township in which said incorporated town is situate to assess and appraise all of the real estate in said town in the manner provided by law for the appraisal and assessment of real estate in towns at the regular periods for the appraisal and assessment of real estate now or hereafter determined by law. And said appraisal and assessment herein provided for shall be made at the time the said assessor makes the appraisal and assessment of personal property in his township, and return to the auditor of the county or counties in which said town is situate at the time said assessor returns the assessment and appraisal of personal property in the township or townships at the next succeeding assessment after the incorporation of said town.

Township Assessor's duty.

SEC. 2. To enable the assessor to make the appraisal and assessment required of him by section one (1) of this act the auditor of the county or counties wherein said town is situate shall on or before the first Monday in April succeeding the incorporation of said town, upon written request of the Board of Trustees of said town, make out and deliver to the assessor of the township or townships, wherein said incorporated town it situate, a list of all the lands and lots within the corporate limits of said town, together with the names of the owners of each separate

County Auditor to deliver to Assessor list of lands and lots.

tract, parcel or lot as shown by the records in the office of said auditor, in tabular form.

Emergency.

SEC. 3. Whereas, an emergency exists for the immediate taking effect of this act, therefore the same shall be in force and take effect from and after its passage.

REGARDING STEALING OF DOGS.

AN ACT for the prevention of dog stealing, and providing a penalty for the violation thereof.

[Approved February 28, 1899.]

Dog stealing.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whoever takes, steals or carries away any dog, male or female, upon which said dog no taxes are delinquent, and which dog shall have been listed for taxation at the true cash value as personal property is listed shall be subject to prosecution for larceny, and upon conviction, the same punishment shall be inflicted as provided upon conviction in larceny; *Provided*, That this act shall not apply to any dog that is known to have chased, worried, maimed or killed sheep.

REAL ESTATE ENCUMBERED BY MORTGAGE.

AN ACT concerning the taxation of real estate encumbered by mortgage, and declaring an emergency.

[Became a law by lapse of time without the Governor's signature, March 5, 1899.]

Mortgage exemption.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That any person being the owner of real estate liable for taxation within the State of Indiana, and being indebted in any sum, secured by mortgage upon real estate, may have the amount of such mortgage indebtedness, not exceeding seven hundred dollars, existing and unpaid upon the first day of April of any year, deducted from the assessed valuation of mortgage premises for that year, and the amount of such valuation remaining after such deduction shall have been made shall form the basis for assessment and taxation for said real estate for said year: *Provided*, That no deduction shall be allowed greater than one-half of such assessed valuation of said real estate.

Affidavit, what to contain.

SEC. 2. Any person desiring to avail himself, or herself, of the provisions of this act shall, between the first day of

March and the first day of May of each year, file with the auditor of the county wherein said real estate is situate a sworn statement of the amount of such mortgage indebtedness existing and unpaid on the first day of March of that year, giving the name and residence of the mortgagee, and shall also give the name and residence of the assignee or bona fide owner or holder of said mortgage, if known, and if not known, said person shall state that fact, and shall also state the record and page where said mortgage is recorded, and a brief description of the real estate upon which such incumbrance exists.

SEC. 3. The County Auditor with whom such statement is filed, in case the money, notes or credits evidenced by such mortgage indebtedness be liable for taxation in any county in the State of Indiana other than the one wherein such real estate is situate, shall immediately certify and transmit a copy of such sworn statement to the auditor of the county wherein the mortgagee, assignee or bona fide holder or owner of said mortgage resides, or wherein the money, notes or credits evidenced by mortgage is otherwise taxable.

SEC. 4. Any person who shall willfully make a false statement of the facts provided for in section 2 of this act shall be deemed guilty of misdemeanor, and upon conviction thereof shall be fined in any sum not less than fifty, nor more than five hundred dollars, to which may be added imprisonment in the county jail for any term not exceeding six months.

SEC. 5. Whereas, an emergency exists for an immediate taking effect of this act, the same shall be in force from and after its passage.

BUILDING AND LOAN ASSOCIATIONS.

Taxation of Paid-up and Prepaid Stock Defined. What Stock Taxed.

[In force July 1, 1897.]

SECTION 4. For the purpose of this act, paid-up stock shall be such stock as the owner shall have paid the full face value thereof at the time of the subscription therefor. Prepaid stock shall be stock upon which the owner shall have paid any specific sum in advance at the time of subscription, leaving the balance necessary to mature the same to be paid by the dividends to be declared thereon by the association, or stock on which more than six months' dues have

been paid in advance. All building and loan associations, as such, shall be exempt from taxation. Shares of stock on which loans have not been made or advanced by the association, which stock is paid-up or prepaid, shall be considered and held as credits of the members, individually, and listed by them, and assessed against them for taxation as other property.

See decisions under Sec. 89 of Tax Law.

ENCOURAGEMENT OF FORESTRY.

AN ACT for the encouragement of Forestry.

[Became a law by lapse of time without the Governor's signature March 8, 1899.
In force on publication of laws of 1899.]

Forest
reservation,
assessment of.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That upon any tract of land in the State of Indiana, there may be selected by the owner, or owners, as a permanent forest reservation, a portion not to exceed one-eighth of the total area of said tract, which shall be appraised for taxation at one dollar per acre.

Original
forest.

SEC. 2. If such selection is an original forest, containing not less than 170 trees in each acre, it shall become subject to this act upon filing with the auditor of the county in which it is situated, a description of such selection as is hereinafter provided.

Planting trees,
when subject
to act.

SEC. 3. If any land owner shall plant not less than 170 trees on each acre of selected forest reservation, and shall cultivate and maintain the same for three years, then it shall become subject to this act, as herein provided.

When not
sufficient
trees may be
added to.

SEC. 4. Upon any tract selected as a forest reservation which contains 100 or more original forest trees on each acre, the owner may plant a sufficient number of forest trees which shall make up the required 170 trees per acre, when the same shall become subject to this act, as in section 3.

Not to use as
pasture, when.

SEC. 5. No land owner shall receive the benefit of this act who shall permit cattle, horses, sheep, hogs or goats to pasture upon such reservation until said trees are four inches in diameter.

Trees dying,
others to be
planted.

SEC. 6. Whenever any tree or trees shall be removed or die, the owner in order to avail himself of this act shall plant other trees in place of such trees as may be removed or die, and protect said trees until they are four inches in diameter, shall plant others which shall at all times maintain the full number required by this act.

SEC. 7. Not more than one-fifth of the full number of Removal of trees in any forest reservation shall be removed in any one year, excepting that such trees as may die naturally may be removed, when other trees shall be planted.

SEC. 8. Ash, maple, pine, oak, hickory, basswood, elm, black locust, honey locust, Kentucky coffee tree, chestnut, walnut, bitternut, larch, tulip tree, mulberry, osage, orange, sassafras and catalpa shall be considered forest trees within the meaning of this act.

SEC. 9. It shall be the duty of the auditor in every county to keep a record of all forest reservations as the same shall be filed with him, and he shall require the owner or agent to subscribe under oath the extent and description of the land reserved, and that the number of trees is as required by this act, and that he will maintain the same according to the intent of this enactment.

SEC. 10. It shall be the duty of the assessor to personally examine the various forest reservations when the real estate is appraised, and to note upon his return the conditions of the trees, in order that the intent of this act may be complied with. And if the reservation is properly planted and continuously cared for, he shall appraise the same at one dollar per acre.

EXEMPTION OF CEMETERY PROPERTY.

AN ACT exempting from taxation the property of cemeteries organized under the laws of this State, upon a basis which prevents the corporation from deriving therefrom pecuniary benefit or profit.

[Approved February 20, 1895.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That in all cases where cemeteries have been incorporated under the laws of this State upon such a basis that the corporations can not derive any pecuniary benefit or profit therefrom, all the property and assets belonging to such corporation used exclusively for cemetery purposes, shall be exempt from taxation for any purpose.

SEC. 2. *Be it further enacted,* That an emergency exists for the immediate taking effect of this act, and that the same shall be in full force and effect from the time of its passage.

CONCERNING STATISTICS.

AN ACT concerning statistics, providing for the performance of certain duties by the Chief of the Bureau of Statistics, County Auditors, Township Assessors, and all other persons authorized by the Chief of the Bureau of Statistics, to collect statistics, providing for the enforcement of such duties, and declaring an emergency.

[Approved March 11, 1865.]

Statistical
information.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Chief of the Bureau of Statistics shall annually provide the form of such blanks as in his judgment may be necessary for the information of the Bureau of Statistics, and shall, between the fifteenth day of January and the fifteenth day of March of each year, furnish to each of the County Auditors in the State a form of such blank, and it shall be the duty of the County Auditor of each county in the State to cause to be printed such blanks, and deliver a sufficient number thereof to each of the Township Assessors in his county, at the same time that he delivers to them the blanks for the assessment for taxation, and such Township Assessors shall, in connection with obtaining the lists for taxation, cause to be filled out the blanks so furnished to him by the Auditor, with the information required to be furnished, such information, however, being for statistical purposes in relation to agriculture and such matters as may be required; and he shall enter the totals in a report which he shall transmit to the Chief of the Bureau of Statistics on or before the first day of July of each year.

SEC. 2. Any person or persons authorized by the Bureau to collect statistics or to answer questions relating thereto, who shall neglect or refuse to make true returns shall be subject to the penalties now provided by law for such neglect or refusal.

Emergency.

SEC. 3. Whereas, an emergency exists for the immediate taking effect of this act, the same shall, therefore, be in force from and after its passage.

COLLECTION OF DELINQUENT TAXES IN CITIES WITH A POPULATION OF MORE THAN FIFTY THOUSAND AND LESS THAN ONE HUNDRED THOUSAND.

AN ACT providing for the collection of delinquent taxes by foreclosure of tax liens on real estate, in cities having a population of more than fifty thousand and less than one hundred thousand according to the last United States census, and to empower such cities to purchase said property under foreclosure and sale, and to hold, sell, and dispose of said real estate.

[S. 121. Approved March 2, 1901.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That in addition to powers now possessed by cities of said State having a population of more than fifty thousand and less than one hundred thousand, according to the last preceding United States census, said cities shall have the power to bring suit either in the Circuit or Superior Court of the county in which the same are situate, for the recovery of all taxes on real estate, or that are liens on real estate, that have heretofore or shall hereafter become delinquent, and for the foreclosure of the lien thereon for said taxes, and for the sale of such real estate for the satisfaction thereof: *Provided*, No such suit shall be brought until said real estate shall have been offered for sale "three times for such delinquent taxes by the proper officer of such cities under existing laws." It shall be the duty of the City Treasurer annually after the sale for delinquent taxes, to make out and deliver to the City Attorney of such city a list of such owners, the description of the real estate offered for sale as aforesaid, and not sold, together with the amount of the delinquency against such real estate, and it shall thereupon be the duty of the City Attorney to bring suit in the name of the city as plaintiff, against the owner or owners of such real estate, and all parties who have or claim to have, or appear of record in any of the public offices of the county in which such city is situate, to have any interest in, or lien upon, such lands or lots, shall be made defendants in such suit, and no outstanding unrecorded deed, mortgage or claim, except liens for State or county taxes, shall be of any effect as against the title or right of such plaintiff, as fixed and declared by the decree made in such case.

The court shall cause the facts to appear of record and fix the order and priority of liens and order distribution

Duty of city attorney.

accordingly: *Provided*, That proceedings in such cases shall be conducted in the same manner, as nearly as may be, in conformity with the practice in the case of foreclosure of mortgages. Should any irregularity, error or defect in the proceedings or in the advertisement and sale of any such property occur, such tax lien in favor of such city shall not be merged in such judgment or decree, but shall retain its priority the same as though no foreclosure had been made or attempted. The respective City Attorneys of said cities shall represent them as attorneys in said proceedings. Such proceedings shall be governed in relation to the sale of real estate thereunder, the issuing of certificates of purchase and Sheriffs' deeds to purchasers, the redemption thereof within one year from date of sale, and in all other respects as far as practicable by the law applicable to the foreclosure of mortgages. The court shall have power in such suits to foreclose the lien of said cities on said real estate for all taxes, penalty, interest, costs and charges due thereon.

Sale of lands.

The Clerk shall, when requested by the plaintiff, issue a certified copy of such judgment or decree to the Sheriff, who shall, in pursuance thereof, cause said real estate to be advertised, posted and sold as other lands are sold on execution. All such sales shall be made without relief from valuation or appraisement laws, and without stay of execution. It shall be lawful for said cities to become the purchasers of any real estate offered for sale under any such foreclosure proceedings, in which event they shall have all the rights and powers of other purchasers of real estate under execution or foreclosure sales, said cities shall have the right to own, hold and dispose of any real estate acquired by them under such proceedings. This act is not intended to impair, abridge or take away any of the powers now possessed by said cities in relation to the assessment and collection of taxes, except in so far as the same may be in conflict herewith.

Emergency.

SEC. 2. It is hereby declared that an emergency exists for the immediate taking effect of this act, and the same shall be in force from and after its passage.

EXEMPTION OF PROPERTY OF THE UNITED STATES.

AN ACT to amend Section two of an act entitled "An act ceding jurisdiction of this State over certain lands owned and to be owned and held by the United States, and declaring an emergency," approved January 25, 1883.

[S. 396. Approved March 9, 1901.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Section two of the above entitled act be and the same is hereby amended to read as follows:

Section 2. The lands aforesaid, when so acquired, shall forever be exempt from all taxes so long as the same shall remain the property of the United States. Exemption of property of the U.S.

EXEMPTION OF REAL ESTATE OF AGRICULTURAL SOCIETIES.

AN ACT to exempt real estate of county and district agricultural societies from taxation, and repealing all laws in conflict.

[S. 41. Approved February 14, 1901.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That any part, parcel or tract of land not exceeding eighty acres and the improvements thereon, owned by county or district agricultural associations of this State, organized agreeably to the provisions of "An act for the encouragement of agriculture," approved February 17, 1852, shall be exempt from taxation: *Provided*, That when the same shall cease to be used or occupied exclusively for the purposes specifically set out in said act, approved February 17, 1852, or shall fail in any way to comply with the provisions thereof, the same shall cease to be exempt from taxation. Lands exempt from taxation.

SEC. 2. All laws and parts of laws in any way in conflict herewith, are hereby repealed. Laws repealed.

ACT DEFINING THE TERM "RAILROAD."

AN ACT supplemental to an act entitled "An act concerning taxation, repealing all laws in conflict therewith, and declaring an emergency," approved March 6, 1891, and declaring an emergency.

[H. 258. Approved March 5, 1901.]

Word railroad shall apply to electric roads for purposes of taxation.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the word "railroad," wherever it occurs in an act entitled "An act concerning taxation, repealing all laws in conflict therewith and declaring an emergency," approved March 6, 1891, shall, from and after the taking effect of this act, be considered, for all purposes of taxation, as including every kind of street railroad, suburban railroad or interurban railroad, association, company or corporation, whether its lines of railroad be maintained either at the surface, or above or below the surface of the earth, and by whatever power its vehicles are transported; and every person or persons, association or corporation operating such street, suburban or interurban road, shall make returns for taxation upon all such property in the same manner that returns are made upon other railroad property and upon similar blanks, and taxes shall be levied, assessed and collected upon such street, suburban or interurban railroad property, in the same manner as taxes are now or hereafter may be levied, assessed and collected upon other railroad property, and that so much of sections 18 and 73 of said act of 1891 as is in conflict with this act be and the same is hereby repealed.

Emergency.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in full force and effect from and after its passage.

COUNTY ASSESSORS' MEETINGS.

AN ACT providing for annual meetings of the County Assessors and for paying the per diem and expenses of those attending, and declaring an emergency.

[H. 391. Approved March 7, 1901.]

Annual meeting of county assessors.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the State Board of Tax Commissioners shall annually call a meeting of the County Assess-

ors of the State, to be held at such time and place as the said Board may select, and to continue not longer than three days in any one year; that each Assessor attending such meeting shall be allowed three cents per mile for the distance actually traveled by the most expeditious railroad route in going to and returning from such meeting, and three dollars per day for expenses while attending said meeting, not to exceed three days in any one year. All of said payments shall be made by the County Treasurer on a warrant issued by the County Auditor, and said County Auditor before issuing any such warrant shall require said County Assessor to make a verified statement of the number of days he attended and the distance traveled.

Allowance for expenses.

Warrant for allowance.

SEC. 2. Inasmuch as an emergency exists for the immediate taking effect of this act the same shall be in force and effect from and after its passage.

COLLECTION OF DELINQUENT TAXES IN COUNTIES OF MORE THAN 100,000 POPULATION.

AN ACT concerning the collection of delinquent taxes in counties having a population of more than one hundred thousand according to the last preceding United States census, providing penalties and fees, and declaring an emergency.

[H. 576. Approved March 9, 1901.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* After the first Monday in May, the Treasurer of all counties in the State having a population of more than 100,000 by the last preceding United States census, shall cause a list to be made of the delinquents, with the amount due from each, and with a separate column headed "Return," which list shall be certified to be correct by the County Auditor, and shall then proceed with such list, which, when so certified shall be sufficient authority and have the same force and effect as an execution, to call, either in person or by deputy, upon every person named in the duplicate who is delinquent, and who resides in the county, and he shall make a demand for the amount of such delinquent taxes and the penalty thereon of each resident delinquent, and if the taxes and penalty are not paid on such demand he shall proceed immediately to levy upon sufficient personal property of such delinquent to pay such taxes, penalty, and the costs of sale and to sell the same in the manner and at the place hereinafter provided. In case such delinquent tax and penalty is paid upon de-

List of delinquents.

Treasurer's fee.

mand, said Treasurer shall charge and receive from such delinquent, in addition to the taxes and penalty, the sum of fifty cents for such demand, which shall belong to the Treasurer in addition to his salary provided by law. When he can find no personal property of such delinquent, within the county, upon which to levy, after delinquent [diligent] search therefor, he shall make, opposite the name of such person on the said list, in the column marked "Return," a special return setting forth the fact that he had made diligent search in the county for personal property of such delinquent, and was unable to find any upon which to levy for the payment of the taxes due thereon, which return shall be prima facie evidence of the facts therein recited, and the Treasurer shall, if he have reason to believe that such delinquent have money, effects or other property, in his possession, or on deposit, that can be reached by any remedy known to the law, make known such facts to the Prosecuting Attorney, who shall cause such proceedings to be brought as will secure the payment of such delinquency, and for his services in so doing he shall receive ten per cent. of such money so collected, and a docket fee of ten dollars to be taxed as costs in such action and paid out of the moneys so collected.

Special
return.

Fees for levy
and sale.

SEC. 2. For the levying and making such sale of personal property to pay delinquent taxes in addition to the fee for a demand upon the resident delinquent, the Treasurer shall be allowed the same fees and charges as are allowed by law to constables for making levy and sale of personal property on execution, and expenses for taking care of property levied upon, which shall belong to the Treasurer in addition to his salary provided by law.

Emergency.

SEC. 3. Whereas an emergency exists for the immediate taking effect of this act, therefore this act shall be in force from and after its passage.

NAVIGATION COMPANIES.

AN ACT for the incorporation of navigation companies, providing a method for their taxation, and providing a method for the taxation of shipping and declaring an emergency.

[H. 523. Approved March 7, 1901.]

Incorporation
of navigation
companies.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That any number of persons may form themselves into a corporation for the purpose of engaging in commerce upon any navigable waters.

SEC. 2. The persons proposing to organize any such navigation company shall make, sign and acknowledge before some officer capable to take acknowledgment of deeds, a certificate in writing, which shall state the corporate name of the company, the object of its formation, the amount of capital stock, the number of shares into which it is to be divided, the home office or domicile of the company and the names of the directors who shall serve during the first year.

SEC. 3. Such articles of association shall be executed in duplicate and one copy filed with the Secretary of State and one copy with the Recorder of the county in which is located the home office of the company. The fee of the State, payable to the Secretary of State, for the filing of articles of association shall be one dollar upon every thousand dollars of the capital stock of such corporation, but it shall in no event be less than ten dollars.

SEC. 4. Any such company may, by a vote of two-thirds of its stockholders, at any stockholders' meeting, increase or decrease its capital stock; such increase or decrease to take effect from the time a certificate of the adoption of a resolution to that effect, signed by the president and secretary of the board of directors and evidenced by the seal of the corporation, shall have been filed in the office of the Secretary of State of the State of Indiana, and the fee of the State for filing any certificate of increase shall be one dollar per thousand of increase.

SEC. 5. Not less than three nor more than five directors shall be elected by the stockholders of such company, who shall hold their office for the term of one year and until their successors are elected. Notice of the election of directors shall be given by publication for one week before such election in some newspaper published in the county in which the principal office of the company is located.

SEC. 6. The board of directors shall organize by choosing a president, secretary and such other officers as they may deem necessary, including as many ship's husbands as they may deem prudent.

SEC. 7. Such corporations may have a common seal, and the same use, alter or change at pleasure, and may be capable of purchasing, holding, using and conveying, mortgaging and leasing any estate, real and personal, that may by said board of directors be deemed necessary to the management of the business of the company, and in their corporate names shall be capable of suing and being sued.

pleading and being impleaded, defending and being defended, in any court of competent jurisdiction.

Shall keep books.

SEC. 8. The directors shall at all times keep, or cause to be kept, at some proper place agreed on by them, proper books of account, in which shall be entered all the transactions of the company; which books shall at all times be subject to the inspection of the stockholders.

By-laws.

SEC. 9. The directors shall provide a code of by-laws for the government of the corporation; which by-laws, when approved by a majority of the stockholders, shall be binding until altered or amended by a vote of the stockholders at any regular or special meeting.

Vacancies in board of directors.

SEC. 10. The directors shall fill all vacancies which may occur in their body. They may sit on their own adjournments or on a call of the president, and when the president or secretary is absent the directors may appoint one of their members to fill the vacancy. The president may, if he deem it advisable for the interests of the company, or a majority of the directors may, call a meeting of the stockholders at any time.

Vote of stockholders.

SEC. 11. At all elections of directors, and upon all propositions to amend the by-laws or to increase or decrease the stock, or to issue preferred stock, each stockholder shall be entitled to vote in person or by proxy, in the manner and form prescribed by the by-laws, and shall possess one vote for each share of stock appearing in his name on the books of the company.

No transfers allowed pending meeting.

SEC. 12. Three days before any meeting of stockholders the stock books of such companies shall be closed, for the purpose of transferring stock, and shall remain closed until after the adjournment of such meeting.

Certificates of stock and transfers.

SEC. 13. Certificates of stock shall be given to the stockholders, which shall be evidence of the stock held, and shall be signed by the president and secretary, over the seal of the company, the same to be transferable on the books of the company only in person or by attorney; but such stock shall at all times be held by the company for any delinquency in the payment of any assessments ordered by the board of directors.

Liability for debts.

SEC. 14. The stockholders of such company shall be individually liable, jointly and severally, for all debts owing mariners, boatmen, laborers and servants for services rendered.

Preferred stock.

SEC. 15. Such company may at any time, by a vote of two-thirds of its stockholders, create and issue shares of preferred stock in any amount not exceeding double the common stock of the company.

SEC. 16. Such preferred stock may be provided for at the time of the incorporation of the company, in which case the amount shall be stated in the articles of association, and the number of shares into which it is to be divided, together with the rate of interest to which dividends are limited.

Providing for preferred stock.

SEC. 17. In case such preferred stock be authorized subsequent to the incorporation of the company, the resolution providing for the issuance of the preferred stock shall be duly certified by the president and secretary of the company, over its corporate seal, to the Secretary of State, who shall be paid for the State a fee of one dollar per thousand for all preferred stock authorized to be issued by such resolution. Such certificate shall show the amount of the preferred stock authorized, the number of shares into which it is to be divided and the amount of each share.

Resolution certified to Secretary of State.

SEC. 18. Such stockholders may, by a vote of the holders of a majority of the common stock, authorize and empower the board of directors to dispose of and issue such preferred stock, upon such terms and conditions as such board of directors may deem best.

Sale of preferred stock.

SEC. 19. Such preferred stock shall be subject to redemption at par at such time or times, and upon such terms and conditions, as shall be expressed in the certificates thereof, and the holders of such preferred stock shall be entitled to receive, and said company shall be bound to pay thereon, such semiannual sum or dividend as may be expressed in the certificates, not exceeding four per centum, before any dividend shall be set aside or paid on the common stock of such company, and in no event shall the holders of such preferred stock be individually or personally liable for the debts or other liabilities of the company; but in case of insolvency, or upon the dissolution of such company, all debts and other liabilities shall be paid in preference to such preferred stock. Such preferred stock, however, shall at all times have priority in payment out of the assets of such company, over the common stock thereof, for the full face value, together with all arrearages of interest or dividends due thereon.

Redemption of preferred stock.

Non-liability of holders.

Priority of payment.

SEC. 20. Such preferred stock shall not be voted at any meeting of such company, nor shall the holders thereof, as such, have any voice in the management of the affairs of such company, excepting, however, that such company shall not have authority to convey its real estate or mortgage any of its property without the written consent of the holders of a majority of the shares of such pre-

Preferred stock not voted.

Consent to mortgage or declare dividends.

ferred stock; nor shall such company, without such consent, declare any dividend upon its common stock that will impair its capital. Such preferred stock shall not entitle the holder thereof to any interest in the assets of such company beyond the par or face value of such preferred stock, together with all arrearages of interest or dividends due thereon.

Certificate of redemption of preferred stock.

SEC. 21. When any such company has redeemed the preferred stock issued by it, its directors shall, within thirty days thereafter, cause to be filed with the Secretary of State, their certificate in writing as directors of such company, duly acknowledged, certifying that such preferred stock has been redeemed; for filing which certificate the Secretary of State shall receive, for the State, a fee of one dollar; and in default of filing such certificate the directors of such company shall be jointly and severally liable for all debts of such company, contracted after said thirty days and before such certificate is filed.

Tax on tonnage.

SEC. 22. Such companies shall pay into the State Treasury annually, on or before the first day of June, a sum equal to three cents per net ton of the registered tonnage of all vessels owned by such companies; such payment to be received in lieu of all other taxes, except as herein-after provided, and no further assessment shall be made by any officer upon any vessel, barge, boat or other water craft belonging to such companies.

Capital stock not taxed.

SEC. 23. The method of taxation upon the net tonnage of vessels being in lieu of other taxation, the capital stock of such companies shall not be assessed or taxed, but such companies shall return for taxation at their home offices all personal property of every kind and description owned by said companies, excepting vessels and other actual tangible property outside the State of Indiana; which property shall be assessed to such companies as other personal property is taxed.

Tangible property assessed.

Taxation of vessels.

SEC. 24. All ships and other vessels engaged in commerce and owned or registered under the navigation laws of the United States at any port in the State of Indiana, shall be taxed as hereinbefore provided, at the rate of three cents per net ton of the registered tonnage of the vessel, and all owners of such ships shall make returns as in this act provided.

Return of vessels for taxation.

SEC. 25. Every navigation company incorporated under this act, and all owners of ships and other vessels registered in Indiana under the laws of the United States shall annually, on or before the first day of July, file with the

Auditor of State a verified statement in writing containing the name, port of hail, and the tonnage of every barge, boat or other water craft owned by such company, individual or partnership on the first day of May immediately preceding, and shall thereupon pay into the State Treasury a sum equal to three cents per net ton of the registered tonnage of such vessel, and the treasurer shall thereupon issue his receipt therefor; which receipt shall show that such payment is in full for all taxes assessed against such vessel or vessels, and no other returns for taxation shall be required from navigation companies organized under this act than such as are herein before provided for.

SEC. 26. Every such company shall file with the Auditor of State, when it makes its first return for taxation, a certified copy of the most recent registration certificate of every vessel owned by said company and registered in the State of Indiana, and annually thereafter shall file certified copies of all registration certificates issued to such navigation company during the previous year.

SEC. 27. Other owners of vessels shall file similar certified copies of registration certificates in order to avail themselves of the benefit of this act.

SEC. 28. In case any navigation company organized under this act shall fail, for thirty days after the first day of July in any year, to make a return as herein before provided, and to pay the tax herein before provided for, such fact shall be reported by the Auditor of State to the Attorney-General who shall immediately proceed to institute proceedings against such company for the sequestration of its property and the forfeiture of its charter and its final dissolution. In any such action a penalty of five hundred dollars may be recovered against such company in addition to whatever taxes may be found delinquent.

SEC. 29. In case any company shall make a false or fraudulent return of its net tonnage, it shall be subject to a penalty of one thousand dollars, to be recovered by the Attorney-General, in the name of the State, in any court of justice.

SEC. 30. Inasmuch as an emergency exists for the immediate taking effect of this act, the same shall be in full force and effect from and after its passage.

FREE KINDERGARTEN SCHOOLS.

AN ACT to require the levying of a tax in cities having a population according to the latest United States census, of more than six thousand, for the support of Free Kindergarten Schools and for the appropriation of the funds so raised and declaring an emergency.

[H. 295. Approved March 6, 1901.]

Tax for free kindergarten.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That in any city having a population according to the latest United States census of over six thousand, the Board of School Commissioners, or School Trustees may in fixing the annual levy of taxes for school purposes include therein one cent on each one hundred dollars of valuation in addition to the tax now authorized for the purpose of providing a fund for the support of free kindergarten schools in said city.

Manner of collection and disbursement.

SEC. 2. The tax so levied shall be collected as the other taxes for school purposes in such city are collected and shall be disbursed by the County Treasurer as other school funds raised by local taxation are disbursed; and said free kindergarten fund shall be applied to the aid, maintenance and support of free kindergarten schools conducted by any association incorporated for that purpose having the approval of and designated by the Superintendent of Schools of said city, and said fund shall be from time to time paid over to said association for such use upon the written order of said superintendent directed to said County Treasurer: *Provided,* That in cities having a population of more than one hundred thousand according to the last preceding United States census, such tax shall be levied and such association shall not receive such funds unless for more than two years next preceding it shall have maintained at least twelve such free kindergarten schools.

Proviso.

Emergency.

SEC. 3. Whereas an emergency exists for the immediate taking effect of this act, therefore the same shall be in force from and after its passage.

VOTE ON LEVY OF TAXES.

AN ACT concerning the levying of special taxes in cities having not less than 2,700 nor more than 2,800 population according to the last preceding United States census, and providing for a vote of the electors authorizing the same, and declaring an emergency.

[H. 602. Law without Governor's signature, March 11, 1901.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That whenever forty or more resi-

dent taxpayers and legal voters of any city having not less than 2,700 nor more than 2,800 population according to the last preceding United States census, shall file a petition with the Common Council of such city praying that a special tax be levied for the purpose of encouraging local business enterprises or to establish new manufactories in such city, it shall be the duty of such Common Council to order and direct that a special election be held in such city for the purpose of ascertaining the wish of the people in relation thereto.

SEC. 2. That on the filing of such petition, the Common Council shall cause a notice to be published for three consecutive weeks in either a weekly or daily newspaper published and circulated in such city, which notice shall state the time, not less than twenty-one days from the date of the first publication of such notice, when such election shall be held, the amount of the levy proposed to be made and the purpose for which such levy is to be made. Such election shall be conducted according to the provisions of the statute relating to regular city elections, except in so far as the same is changed by this act. The ballot shall be written or printed and shall contain the words "For the special tax levy," and "Against the special tax levy."

SEC. 3. Should a majority of the votes cast at such special elections favor the making of such special levy of taxes, it shall be the duty of such Common Council to make such special levy for the said special purposes, and cause the same to be collected as other taxes are collected: *Provided,* That the levy so made in any one year shall not exceed one (1) per centum on the taxable property in such cities and that the aggregate of such levies shall not exceed two (2) per centum of such valuation.

SEC. 4. That all moneys received from such levy shall be held as a distinct and special fund for the said special purpose and shall not be used for any other purpose whatever. After the purposes for which such special levy has been made shall have been accomplished, should any money remain in such special fund unexpended or unappropriated, the same shall on order of the Common Council be covered into the general funds of such city.

SEC. 5. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage.

INDEX.

ADMINISTRATORS—	Page, Sec.	ASSESSMENT OF—Cont.	Page, Sec.
Real property assessed to	13 21	Interest on exempted securities	13 26
To list property not listed by decedent	7 10	Lands, how described	20 42
To pay taxes upon property in land	94 169	Land with unknown owner	19 40
When taxes are advanced by	96 170	Land situate in two townships	19 41
AGRICULTURAL SOCIETIES—		Lease-hold estate of property	18 35
Real estate of, exempted	163 1	Lots, how described	20 43
AGENTS—		Manufacturers	13 30
Return of property under control of	9 11	Merchants	13 29
To make list separate from their own	12 19	Mines and quarries	24 67
To pay taxes on property in hand	94 169	Mortgaged property, deductions from	156 1
When taxes are advanced by	96 170	Navigation companies	170 22
ANNUITIES AND ROYALTIES—		Nursery stock	13 23
Assessed at present cash value	21 48	Omitted property	68 108
Returned	23 50	Omitted property, by County Auditor	81 142
ANIMALS—		County Treasurer	101 182
Return of	24 50	Personal property, when listed	7 8
APPEALS—		Personality, how described	20 44
Notice of appeal from County Board given Auditor	71 125	Personality of deceased persons	8 11
To the State Board of Tax Commissioners	71 125	Personality of minors	8 11
To be heard by the State Board of Tax Commissioners	74 129	Personality of nonresidents	8 11
APPENDIX—		Personality in hands of agents	9 11
Opinions of Attorney-General...		Personality mortgaged	13 27
ASSESSMENT OF—		Pipe line companies	138 6,7
Additions to cities or towns	58 107	Property adjacent to railroads	152 1
Animals	8 11	Property by the State Board of Tax Commissioners	75 12
Bankers, brokers, etc.	11 16	Property converted into non-assessable property to avoid taxation	24 52
Banks, private	24 59	Property on appeal from counties	72 125
Bank-stock to owner	36 60	Property equalized by the Board of Review	68 115
Bank stock	37 61	Property for taxes assumed to be legal	119 224
Bank stock for municipal purposes	39 66	Property situate upon government or State lands	9 11
Building and Loan Association stock	157 4	Property, validity of not affected by negligence of officers	126 241
Building and Loan Associations	48 80	Purchase money and realty exempt from taxation	13 22
Buildings on right of way	53 94	Railroad property, by the assessor	46 84
Co-partnerships	10 13	Railroad property, by the State Board of Tax Commissioners	79 137
Cities	129 234	Real estate in newly incorporated towns	155 1
Corporate property	10 12	Realty mortgaged	13 28
Deed held for security	13 24	Real property, to owner	13 21
Dogs	19 32	Real estate of railroads, other than right of way	45 82
Divided realty	142 1	Right of way of railroads	44 79
Engines and machinery	15 32	Rolling stock of railroads	44 80
Express companies	128 6,7	Shares in bank	11 11
Forest reservations	158 1	Sleeping car companies	138 6,7
Franchises	13 27	Street railroads (included in railroads)	164 1
Goods and chattels	8 11	Track of railroads	44 79
Government and school lands sold prior to April 1	18 36	Transient merchants	14 31
		Telephone and telegraph companies	138 6,7
		Undivided realty	18 38
		Vessels	170 22
		Water crafts	11 15
		Water works, gas, etc., companies and associations	41 74

ASSESSOR—COUNTY—	Page.	ASSESSOR—COUNTY—	Page.
See County Assessor.			
ASSESSOR—TOWNSHIP—			
See Township Assessor.			
ATTORNEY-GENERAL—			
Opinions of. See appendix.			
To proceed against County Treasurer and bondsmen, on request of Auditor of State.	123	223	
To proceed against navigation companies.	171	28	
To proceed against telegraph, telephone, express, etc., companies, for failure to pay taxes.	141	11	
To prosecute railroads for failure to report.	47	86	
AUDITOR OF COUNTY—			
See County Auditor.			
AUDITOR OF STATE—			
Approves reductions of assessments, when.	81	142	
Audits overpayments made by County Treasurers to State.	128	238	
Certifies assessments of the State Board of Tax Commissioners, on appeal from county Board.	71	125	
Certifies assessments of railroad property to County Auditors.	79	137	
Certifies assessments of all property, as fixed by the State Board of Tax Commissioners.	80	139	
Certifies assessments of telegraph, telephone, etc., companies to County Auditors.	140	9	
Compromises of taxes, duty to.	128	248	
Credite collection of taxes on suit against telegraph, telephone, express, etc., companies.	141	11	
Deputy to act as Secretary of the State Board of Tax Commissioners.	74	129	
Duty of, where railroads fail to make report.	47	86	
Examines and makes returns for corporations, when.	42	75	
Gives quitus to County Treasurers.	121	227	
Has printed tax laws.	126	245	
Member of the State Board of Tax Commissioners.	68	117	
Navigation companies to file certificate of registration with.	171	26	
Notifies prosecuting attorney of failure of County Treasurer to settle.	171	25	
Places before the State Board of Tax Commissioners the statements of railroads.	48	88	
Places before the State Board of Tax Commissioners the statements of telegraph, telephone, etc., companies.	137	6	
Power to inspect books.	16	34	
Prescribes forms for and gives instructions to County Auditors.	126	242	
Prescribes uniform system of bookkeeping.	126	244	
Prescribes form of certificate and sheet for settlement of taxes.	121	226	
Prescribes forms for the return of waterworks, manufacturing, etc., assessments.	40	73	
AUDITOR OF STATE—Cont.			
Proceeds in court against companies delinquent in their returns.	93	163	
Railroads to report to, on blanks prepared by.	47	85	
Receives abstract of duplicate from County Auditors.	87	148	
Report failure of navigation companies to make return.	171	28	
Requests Attorney-General to proceed against delinquent County Treasurers.	123	232	
Returns of express companies to.	133	3	
Returns of pipe line companies to.	136	45	
Returns of sleeping car companies to.	134	4	
Returns of telegraph companies to.	131	1	
Returns of telephone companies to.	132	2	
Settles disputes between counties as to proper place for assessment of property.	12	30	
BANKERS, BROKERS, ETC.—			
Where assessable when the assessment of, is not specifically provided.	11	16	
BANKS—			
May pay tax on shares of stock and deduct from dividends.	38	65	
Retain dividends on stock when notified that taxes are unpaid.	38	65	
Return of incorporated.	37	61	
Returns of private.	34	59	
Return of savings banks.	40	73	
Shares of stock of, assessable as personal property.	5	4	
Shares of stock of, assessable where.	8	11	
Shares of stock of, assessable to owner.	36	60	
Shares of stock of, returned for taxation.	23	56	
BLANKS—			
Distributed by Assessor.	21	48	
Furnished to Assessor by County Auditor.	52	93	
Prescribed by the Auditor of State.	126	242	
Prescribed by the State Board of Tax Commissioners.	69	120	
BLIND—			
Assessor to list.	31	54	
BOARD OF COUNTY COMMISSIONERS—			
County rate fixed by.	3	1	
May direct County Assessor to look after taxes in other counties.	61	112	
May give reasons for Treasurer's failure to settle.	122	229	
To authorize refunding of overpayments by County Treasurers.	125	238	
To make levy for reimbursing county for expense of poor.	154	35	
BOARD OF REVIEW—			
Annual meetings of.	63	111	
Appeal from.	71	125	
Composition of.	63	111	

BOARD OF REVIEW—Cont.	Page.	CERTIFICATE—Cont.	Page.
Duties as to assessment and equalization of property.	64	114	
Equalization of assessments by, between townships.	67	115	
Penalty for false assessment, by.	129	259	
Power of, to inspect books.	16	34	
Powers of.	63	114	
Records of meetings kept by County Auditor.	68	116	
To assess water works, gas, etc., companies.	41	74	
BOND—			
Given by taxpayer retaining property levied upon.	155	156	
BONDS—			
Interest on exempted bonds taxable.	23	50	
Returned for taxation.	23	50	
BOOKKEEPING—			
Uniform system prescribed by Auditor of State.	126	244	
BRIDGE AND FERRY COMPANIES—			
Property of assessable.	12	18	
Return of companies not organized under the laws of this State.	39	72	
BUILDINGS—			
On land assessed as real property.	3	1	
On right of way, how valued.	63	96	
BUILDING AND LOAN ASSOCIATIONS—			
Statements of.	48	89	
Stock defined and taxation of.	137	4	
BUREAU OF STATISTICS—			
Chief to make report to the board and report of the blind, insane, etc.	31	54	
CANAL LANDS—			
Taxable when sold.	18	36	
Wabash and Erie.	18	37	
CAPITAL STOCK—			
Of banks.	37	61	
Of building and loan associations.	157	4	
Of corporations, where assessed.	10	12	
Of railroad, reported to Auditor of State.	47	85	
Of waterworks, gas, etc., companies, where assessed.	41	74	
CASH VALUE			
Of telegraph, telephone, express, etc., companies, how ascertained.	138	7	
Property to be assessed at.	21	48	
State Board of Tax Commissioners to assess property at.	73	129	
CERTIFICATE—			
Of officers necessary to settle disputed residence of taxpayer.	12	30	
Of purchase, given.	12	30	
Of purchaser at tax sale.	163	190	
CERTIFICATE—Cont.			
Of purchase, assignment to.	165	190	
Of purchase, Treasurer to guarantee.	165	191	
Of purchase cancelled, when.	112	210	
Of redemption, through company.	129	251	
Cemetery property—			
Exempt from taxation.	159	1	
CIRCUIT COURTS—			
To ascertain ownership and amount due in cases of contested tax titles.	118	223	
To act in collection of taxes delinquent, in cities of more than one hundred thousand.	162	1	
To act in cities of more than one hundred thousand.	162	1	
To do duty.	130	257	
To issue writ authorizing inspection of books.	16	34	
To issue order against guardians, executors, agents, etc., where they fail to pay taxes.	95	169	
To order and direct in proceedings against incorporeations, delinquent.	93	163	
To order sale of land, when.	118	227	
CITIES—			
Collection of taxes, delinquent, in cities of more than one hundred thousand.	165	1	
Collection of taxes, delinquent, in cities of more than fifty thousand.	161	1	
May vote as to the levy of taxes.	172	1	
Power to license and tax vehicles.	131	1	
Tax laws apply to.	129	254	
Taxes of, when collectable.	129	254	
Township Assessors to assess.	129	254	
COMPANIES—			
Auditor of State to make return of, when officers fail to.	42	75	
Bridge and ferry, return of.	39	72	
Express, definition and return of.	133	3	
Gas, water and heating, property of.	137	4	
Insurance, return of.	11	17	
Lending money, to make return.	34	59	
Navigation.	136	1	
Pipeline, definition and return of.	136	1	
Railroad, return of.	42	75	
Road and bridge.	12	18	
Sleeping car, definition and return of.	134	4	
Telegraph.	131	1	
Telephone, definition and return of.	132	2	
Telephone, telegraph, express, etc., assessments of.	138	7	
Treasurer to collect taxes from incorporated, when.	93	162	
Water works, etc., etc., assessment of.	40	73	
Water works, gas, etc., return of.	41	74	
COMPENSATION—			
Of County Assessors.	147	1	
Of County Treasurer for levy and sale of delinquent property.	93	160	
Of County Treasurer for collection of delinquent taxes.	148	119	
Of Township Assessors and auditors.	51	92	

COMPROMISE OF TAXES—

How and when made.....	127	248
Limit of in cities.....	129	252
On payment of taxes without penalties.....	128	250

CONVERTING PROPERTY—

To avoid taxation, penalty.....	32	55
---------------------------------	----	----

CO-PARTNERSHIP—

Each partner liable for whole of tax.....	11	13
Residence of.....	11	13
Treated as an individual.....	10	13

CORPORATIONS—

Owning water crafts.....	11	15
Shares of stock, when assessed as personal property.....	5	4
Shares of stock returned for taxation.....	23	50
Where assessed.....	10	12

COUNTY ASSESSOR—

Additional assessments, made by, to be added to tax duplicate.....	86	147
Allowance for expenses while attending annual meeting.....	165	1
Annual meeting of.....	164	1
Bond and oaths of.....	60	112
Compensation of.....	146	1
Election and powers of.....	60	112
Examines records and adds property.....	61	113
Inspection of books by.....	16	34
Limitation to compensation of.....	147	3
May appoint deputies.....	60	113
May join in compromising taxes.....	127	248
Member and President of.....	128	250
Board of Review.....	62	114
Powers of.....	61	113
Population of counties ascertained for computing compensation of deputy.....	147	4
Qualifications of deputy.....	147	2
To recommend changes in assessments to Board of Review.....	65	114
To instruct Township Assessors.....	60	112
To visit other counties, when.....	61	112
Vacancies, how filled.....	61	112

COUNTY AUDITOR—

Acts as Secretary of the Board of Review.....	63	114
Adds valuation of lands of Assessor, penalty, when owner fails to return.....	53	94
Appropriates taxes and adds duplicate.....	86	146
Approves bond of County Assessor.....	60	112
Assesses arrearages of taxes on omitted property.....	59	108
Assesses new additions to towns.....	56	107
Assesses omitted property after notice.....	80	142
Attests certificate of redemption on compromises.....	129	251
Books for Assessor, prepares.....	25	33
Cancels certificate of purchase Certifies delinquent taxes of incorporated companies to the Auditor of State.....	112	210
Certifies the amount due the State on semi-annual settlement, to the Auditor of State.....	130	236
Certifies to the Treasurer list of delinquencies.....	89	153

COUNTY AUDITOR—Cont.

Certifies to the Auditor of State, appeals from the County Board of Review.....	72	125
Certifies to the Auditor of State, abstract of the assessment of property.....	77	134
Certifies to the Auditor of State, abstract of the tax duplicate.....	87	148
Changes form of tax deed to suit.....	112	207
Charges taxes of the duplicate and places on the insolvent record.....	123	240
Complete bank officers to report.....	38	62
Corrects duplicate by adding omitted property reported by the Treasurer.....	101	182
Corrects and adds to duplicate.....	86	147
Delivers copy of duplicate to Treasurer.....	86	148
Delivers returns of Building and Loan Associations to Assessor.....	48	89
Determines land to be taken in partial redemption.....	108	199
Distributes assessments of railroads to townships.....	80	139
Divides taxes into two installments.....	86	145
Duty when taxes have been certified from another county.....	91	167
Duty to taxes in cities of more than one hundred thousand population.....	165	1
Duty as to statistics.....	160	1
Duty as to transient merchants.....	14	31
Enters assessments fixed by the State Board of Tax Commissioners, on appeals from the County Board of Review.....	72	125
Enters valuation of capital stock upon duplicate.....	38	63
Enters valuation of bridge and ferry companies upon the duplicate.....	83	144
Estimates and extends taxes on the duplicate.....	83	144
Executes tax deed, after purchaser is dead.....	115	216
Executes tax deed.....	109	205
Extends taxes on assessments, as finally equalized.....	80	140
Fees received for placing assessments from another county on the duplicate.....	94	168
Fees received for tax deed.....	112	208
Furnishes blanks to Assessors.....	52	95
Furnishes to Assessors books upon which to make returns.....	55	101
Gives certificate of purchase at tax sale.....	105	190
Is clerk of tax sale.....	165	180
Is member of the Board of Review.....	63	114
Issues warrant to Assessors for pay.....	51	92
Issues warrant to County Assessor for expenses of annual meeting.....	165	1
Issues deed of sale, and enforces former laws.....	112	209
Keeps register of tax sales.....	113	211
Keeps record of the proceedings of the Board of Review.....	68	116
Keeps transfer books.....	87	149
Keeps record of forest reservations.....	159	9
Keeps record of dog tax collected.....	143	3
Lays before the Board of Review the returns of waterworks, gas, etc., companies.....	41	74
Makes tax duplicates.....	84	145
Makes plats for Assessor.....	52	93
Makes out the delinquent list.....	102	183

COUNTY AUDITOR—Cont.

Makes memorandum of redemption.....	109	204
Makes list of lands and lots in newly incorporated towns.....	155	2
Makes settlements with the Treasurer.....	120	225
May accept belated returns in case of sickness.....	34	58
May compel telegraph, telephone, etc., companies to report length of their lines.....	140	10
May join in compromise of taxes.....	125	250
May be compelled to assess omitted property.....	81	142
Mortgage indebtedness affidavits, duty as to.....	157	3
Names taxpayers in notice of the assessment of omitted property.....	64	114
Not to credit Treasurer with uncollected delinquency until.....	90	154
Places assessments of railroads upon the duplicate.....	48	88
Powers of to inspect books, papers, etc.....	16	34
Preserves the returns of taxpayers.....	60	110
Publishes delinquent list and notices of sale.....	102	184
Refunds money on invalid tax sales.....	113	212
Reports list of personal property to the Assessor.....	46	84
Reports expenses for relief of the poor.....	154	35
Reports to the Assessor.....	31	54
Reports returns and lists to Board of Review.....	61	114
Requires Assessors to correct errors in returns.....	58	106
Settles cases of dispute between townships.....	12	20
Transmits taxes of persons removing from county.....	94	165
Turns over to County Assessor tax returns.....	61	113

COUNTY SURVEYOR—

To survey land on request of the Assessor.....	54	99
--	----	----

COUNTY TAXES—

Rate of fixed by the Board of County Commissioners.....	3	1
---	---	---

COUNTY TREASURER—

Accepts part payment of taxes, when.....	99	175
Attends office for collection of taxes, when.....	57	151
Books and papers of, taken against.....	124	234
Bondsman liable, when.....	133	232
Can not levy for delinquent taxes when the value does not exceed one hundred dollars.....	148	119
Charged, when levy is made.....	89	153
Charges of insolvent taxes of the duplicate.....	125	240
Charges of when delinquencies are paid on demand.....	89	153
Collections from, when delinquent in settlements.....	124	226
Collections by, in cities of more than one hundred thousand.....	105	1
Collection by, in cities of more than fifty thousand.....	101	1

COUNTY TREASURER—Cont.

Collects railroad taxes.....	48	88
Collects penalty from purchaser at tax sale, failing to pay.....	104	188
Collects taxes, certificate from other counties and pays to the State Treasurer.....	94	167
Demands and collects taxes from incorporated companies.....	93	161
Duty as to transient merchants.....	14	31
Enters payment of taxes on each book and gives receipt.....	99	176
Fees for collection of delinquent taxes.....	148	119
Fees for levy and sale of property.....	93	160
Fees for collecting taxes from another county.....	94	167
Gives notice of tax sale.....	92	157
Guarantees tax certificate.....	106	194
Issues certificate of redemption in compromise of taxes.....	129	251
Keeps cash book and makes report of receipts and disbursements, each month.....	100	181
Levy for the collection of delinquent taxes.....	48	119
Liability in illegal tax sales.....	106	191
Liability of, when person is deprived of land through illegal tax sales.....	120	225
Makes report to Auditor of taxes.....	93	162
Makes settlement with Auditor.....	92	158
Manner of tax sale, by.....	96	171
May sell estate of wards, deceased, etc., for taxes.....	122	230
May collect taxes paid, by mistake, in settlement.....	127	248
May join in compromising taxes.....	128	250
May bring proceedings in court against trustee, agent, guardian, etc., for failure to pay taxes.....	94	169
Member of the County Board of Review.....	63	114
Notifies bank officers to retain dividends, when taxes on stock are unpaid.....	83	64
Pays surplus bond, on tax sale, to owner of property.....	104	188
Pays money to purchaser, in invalid tax sales.....	113	212
Pays taxes to different divisions and is proceeded against on failure.....	122	232
Proceeding naming and penalty for failure to settle with State.....	122	229
Recovers over payment, made to the county.....	125	238
Recovers over payment, made to the county.....	125	237
Recovers uncollected tax, erroneously accounted for.....	100	179
Reports omitted property to the Auditor and collects taxes thereon.....	101	182
Return of when taxpayer has removed from the county.....	93	164
Sets State taxes for taxes.....	103	185
Settles with the State in May.....	121	227
Settles with the State in December.....	121	228
Settles accounts certified to by Auditor of State as evidence in suit against.....	124	233
Terms of.....	149	1
When paid when taxes are waived.....	86	145

DEBITS	Page.	Sec.	DEPUTY AUDITOR OF STATE—Page.	Sec.
Deeds held for security to be listed as	13	24	Acts as Secretary of the State Board of Tax Commissioners	74 129
Personal	23	50		
Share of Building and Loan stock listed as	157	4	DIVIDENDS—	
CUSTODIAN OF STATE HOUSE—			On bank stock, to be held, when	38 65
To furnish room for State Board of Tax Commissioners	73	128	On exempted stocks, taxable,	13 26
DEAF AND DUMB—			DOWNS—	
Assessor to list	31	54	Assessment and collection of tax against	142 1
DECEDENTS—			Assessor to report list of, upon which tax has not been paid	143 5
Property of, listed by executors, etc	7	9	False statements regarding	144 7
Taxes of, payable by executors, etc	96	171	Owner of stock, killed by, to report to trustee	145 12
DEEDS, TAX—			Penalty for harboring dog upon	144 9
Change of form of, tax by Auditor	110	263	which tax has not been paid	143 4
Execution of	109	263	Penalty for allowing female dog, in heat, to run at large	144 10
Fee for issuing	112	267	Penalty for keeping a sheep-killing	144 8
Form of	110	263	Roaming around, unattended, may be killed	146 14
To be given in sales made under former laws	112	269	Stealing of, listed for taxation	156 1
DESCRIPTION—			Stock killed by to be appraised and paid for	145 12
Of lots, taxed	20	43	Surplus dog fund in townships	146 13
Of personality, taxed	20	44	Surplus dog fund in county	146 13
Of realty, taxed	19	42	Tax on	147 27
DELINQUENT TAX—			Tax on, how used	124 236
Auditor not to credit Treasurer with uncollected, unless	90	154	Tax on, sold to trustee	145 2
Bond to be given by delinquent retaining property, pending sale	91	155	Tax on, reported to Auditor	143 5
Collection of, in cities of more than fifty thousand	161	1	Tax on, to constitute a township damage fund	145 11
Collection of, in cities of more than one hundred thousand	165	1	Trustee to register all losses of stock killed by	145 13
Fee for levy and sale of property for	93	160	ELECTION—	
Levy for, when not paid on demand	80	153	Of County Assessors	60 112
List of, to be made out by the Auditor	102	183	Of Township Assessors	49 50
List of, to have force of an execution	80	153	EMERGENCY—	
May be paid at any time before date of sale	100	180	To laws of 1861	131 260
Penalty on	88	125	To laws of 1865	142 13
Power of Treasurer to levy and sell, at any time	92	129	ENGINES AND MACHINERY—	
Proceedings by Auditor of State against corporations to collect, Property levied upon, may be retained by delinquent until date of sale	93	164	Listing of	15 32
Return by Treasurer where no property is found to levy upon for	91	155	EXAMINATION—	
Sale of realty for	103	185	Auditor of State to make on failure of corporations to make returns	42 75
Treasurer's demand, levy and sale for collection of	148	119	County or Township Assessor to make, of papers, books, etc., by authority of court	16 34
Treasurer's fees, for collection of	148	119	State Board of Tax Commissioners to examine books, papers and witnesses	70 139
When taxes become	88	152	Township Assessor to make, of buildings	54 98
DEPUTY—			EXEMPTIONS AND ADMINISTRATORS—	
Compensation of, Assessors	51	92	Make lists of property of decedents, who had not made list	7 10
Of County Assessor appointed	42	113	Pay taxes on property, in hand	94 169
Of County Assessors, kin not eligible	107	2	Real property assessed to	12 30
Of Township Assessors appointed	51	91	When, a divorce taxes	56 170
			EXEMPTIONS—	
			Agricultural societies, property of	163 1
			Buildings used for religious purposes	6 5
			Capital stock of banks not exempted from municipal taxation	39 66

EXEMPTIONS—Cont.	Page.	Sec.	FALSE SWEARING—	Page.	Sec.
Cemetery property	159	1	As to tax matters, is perjury	130	255
Exception in all kinds of property enjoying	7	6	FOREST RESERVATIONS—		
From levy where property does not exceed one hundred dollars in value	149	119	Adding trees	158	4
Interest on exempt stocks or bonds not exempt	13	26	Assessment of	158	1
Lands and buildings used and set apart for scientific or charitable purposes	6	5	Assessor to examine	158	10
Mortgaged lands, when	161	1	County Auditor to keep record of	158	9
Property of the United States	161	2	Not to be used as pasture	158	5
Property of the State	6	5	Original trees	158	2
Property of county, city, town and township	6	5	Planting of trees	158	7
Property of manual labor schools or colleges	6	5	Removal of trees	158	3
Property exempted by the laws of the United States	5	4	Trees planted in place of dying ones	158	6
Taxation of the leasehold, of property exempt from taxation	18	35	What are forest trees	158	8
EQUALIZATION OF ASSESSMENTS—			FRANCHISES—		
By Board of Review	63	214	Assessed as personal property	13	25
By Board of Review between townships	67	115	Of corporations	10	11
By State Board of Tax Commissioners	75	129	Of water works, gas, etc., companies, When assessed	41	74
Charges of property to be considered by the State Board of Tax Commissioners in making an How, it to be made by the State Board of Tax Commissioners	78	135	FREEHOLDERS—		
FAILURE OF OFFICERS TO DO DUTY—			To serve on the Board of Review	63	114
Negligence of officers, fineable	130	257	FREE KINDERGARTEN SCHOOLS—		
Township Assessors, in assessing dogs, penalty	144	6	Tax levied for	172	1
FAILURE TO PAY TAXES—			FURNITURE—		
Bank to pay taxes on stock on failure of holder to pay	38	65	Household, returned for taxation	23	50
Of purchasers at tax sale, penalty	104	188	GAS, WATER AND HYDRAULIC COMPANIES—		
FAILURE TO RETURN—			Assessment of	41	74
Assessors to assess on	24	51	Property of, where assessed	11	17
Auditor of State to make returns of companies on	42	75	Return of	40	73
In case bank officers fail to return, Auditor to compel	38	62	GOODS AND CHATTELS—		
Of navigation companies, penalty	171	28	Are personal property	5	4
Of railroads, penalty	47	86	Consigned	14	29
Of telegraph, telephone, etc., companies	137	5	Returned for taxation	25	50
Of water works, manufacturing, etc., associations	40	73	GOVERNMENT LANDS—		
On account of sickness	32	55	When sold prior to April 1st	18	36
Penalty for	32	56	GOVERNOR—		
Valuation to be fixed by Assessor on	32	56	Appoints State Tax Commissioners	68	117
FALSE ASSESSMENT—			Appoints State Tax Commissioners in case of vacancies	73	127
Penalty for	130	256	Approves bills of the Tax Commissioners	71	122
FALSE RETURNS—			Member and chairman of State Board of Tax Commissioners	68	117
Assessor to change	24	51	GUARDIANS—		
Penalty for	32	55	Property of minors in hands of, where assessable	8	11
Of navigation companies	171	28	Real property assessed to	12	20
Regarding dogs	144	7	To pay taxes on property in hands of	94	169
In case of, value of property fixed by Assessor	33	56	When taxes are advanced by	96	170
			HYDRAULIC COMPANIES—		
			Property where assessed	11	117
			INDIANS—		
			Land of, reserved by treaty, when assessable	5	4

INDEBTEDNESSES--	Page, Sec.
Deduction of mortgage, from assessment of property.....	156 1
When assessed as personal property.....	5 4
INSANE--	
Assessor to list.....	31 54
May redeem land sold for taxes.....	107 108
INSOLVENT TAXES--	
Charged from the duplicate.....	125 240
INSPECTION OF BOOKS, PAPERS, ETC.--	
Right of officers to inspect, given by courts.....	16 34
INSURANCE COMPANIES--	
Assessment of.....	41 74
Associations, return of.....	40 73
Returns of.....	39 67
INTEREST--	
On exempted securities, to be assessed.....	13 26
On taxes paid by occupant of land.....	19 40
INTERROGATORIES--	
To be answered by taxpayer.....	22 49
IRREGULARITIES--	
In assessments, not to vitiate.....	60 109
JEWELRY--	
Return of.....	24 50
JUDGE OF CIRCUIT COURT--	
To appoint members of Board of Review.....	63 114
LANDS--	
Advertisement of, for tax sales.....	102 184
Allotted by parties to whom assessable.....	19 39
Are real property.....	5 4
Assessment of equalized by the State Board of Tax Commissioners.....	78 135
Auditor to make list of, delinquent for taxes.....	102 183
Auditor to leave tax deed to.....	109 363
How described.....	19 42
Improvements on, made by purchaser at tax sale.....	109 263
In two townships, where assessed.....	51 91
Owners to return lists of.....	32 94
Quantity of in tract, determined by Assessor.....	107 193
Redemption of by issue.....	107 194
Redemption of undivided part of.....	107 195
Redemption of undivided share of.....	107 196
Redemption of specific part of.....	107 197
Redemption of specific part of undivided part of.....	107 198
Redemption of, when sold for taxes.....	106 192
Reserved by treaty with Indians, when assessed.....	5 4
Sale of, for taxes in cities of more than one hundred thousand.....	102 1
Sold by State but not yet conveyed, taxable.....	5 4
Taxation of government and school lands sold prior to April 18.....	36

LEASEHOLD ESTATE--	Page, Sec.
Assessment of.....	18 35
LEGALITY OF ASSESSMENTS--	
All taxes are presumed to be assessed legally until proven otherwise.....	119 224
Not affected by negligence of officers.....	126 241
LIABILITY--	
All property liable for full payment of taxes.....	98 173
Of shares of undivided realty for the whole of tax.....	13 38
LIEN--	
Against owner, where occupant pays taxes.....	19 40
A lien holder may pay taxes and his receipt becomes an additional.....	99 177
Of State in invalid tax sales, transferred.....	97 172
Of State upon land, when tax sale proceeds invalid.....	114 214
Of taxes, under former laws, continue.....	117 223
Taxes prior lien on lands.....	129 253
Through illegal tax sale released, when.....	160 302
When a shareholder pays the whole tax on undivided realty he holds a.....	150 1
LOTS--	
Advertised for sale.....	102 184
Description of.....	20 13
In new additions, to be assessed.....	58 107
Sale of.....	103 185
MACHINERY, ENGINES, ETC.--	
Listing of.....	15 32
Of railroads, assessed as personal property.....	44 78
Of telegraph, telephone, sleeping cars, etc., companies.....	139 7
MANUFACTURERS--	
Defined.....	14 30
Retains and assessment of.....	14 30
MANUFACTURING, ASSOCIATIONS AND COMPANIES--	
Assessment of.....	41 74
Report of.....	41 75
MERCHANDISE--	
Nursery stock to be assessed as.....	13 23
Return of, for taxation.....	23 50
MERCHANTS--	
Defined and assessed.....	14 29
MINES AND QUARRIES--	
Companies owning.....	40 73
How valued.....	64 97
Personal property of, companies owning.....	11 16
MINORS--	
Property of, where assessable.....	9 11

MONEY--	Page, Sec.
Assessed as personal property.....	5 4
Returned for taxation.....	23 50
MONEY LENDER--	
To make report.....	34 59
MORTGAGES--	
Affidavit of owner of property as to mortgage indebtedness.....	156 2
Deduction of the amount of from assessment of property, when.....	156 1
Personal property encumbered with, to whom assessable.....	13 27
Realty encumbered with, to whom taxable.....	13 28
Returned for taxation.....	23 50
NAVIGATION COMPANIES--	
Articles of incorporation.....	197 2
Board of Directors.....	197 8
Books necessary.....	198 8
By-laws.....	198 9
Capital stock not listed for tax.....	170 23
Certification of stock.....	169 7
Certificate of transfers.....	168 13
Certificate of redemption.....	170 21
Copy of registration certificate.....	171 26
Failure to make return to Auditor.....	167 5
Election of directors.....	171 30
Emergency clause.....	171 28
Failure to make return to Auditor.....	171 28
Of State.....	171 29
Fee of Secretary of State.....	167 3
Filing articles of incorporation.....	166 1
Incorporation of.....	167 14
Increase of capital stock of.....	168 11
Liability of stockholders of.....	168 14
Mortgages and dividends of.....	170 20
Preferred stock of.....	168 15
Preferred stock not voting.....	169 20
Provision for stock of.....	169 19
Redemption of stock of.....	169 19
Return of for taxation of.....	169 18
Sale of stock of.....	168 12
Stockholders vote.....	168 11
Stock transfers.....	170 21
Tangible property of assessable.....	170 22
Taxation of vessels of.....	170 24
Tax on tonnage.....	170 22
Vacancies on board of.....	168 10
NONRESIDENTS--	
Property of, where assessable.....	9 11
NOTES--	
Returned for taxation.....	23 50
NURSERY STOCK--	
Assessed as merchandise.....	13 23
OCCUPANT OF REALTY--	
May redeem property sold for taxes.....	106 192
May pay taxes and deduct from rent.....	99 178
May pay taxes and his receipt becomes a lien.....	99 177
When property assessed to.....	12 20
When property is assessed to.....	19 40
OMITTED PROPERTY--	Page, Sec.
Assessed by County Auditor.....	80 142
Assessed by County Assessor.....	61 112
Auditor gives notice of assessment of when.....	64 114
How assessed.....	64 108
In petition of bonds to ascertain.....	64 108
Treasurer reports to Auditor and collects taxes on.....	101 182
OATH--	
Of Assessor and deputy in making returns.....	56 192
Of Board of Review.....	63 114
Of members of the State Board of Tax Commissioners.....	76 130
Of Secretary of State Board of Tax Commissioners.....	76 131
Of State Tax Commissioners.....	69 115
Of witnesses before the State Board of Tax Commissioners.....	71 123
To list of personal property, returned.....	57 105
OWNER OF PROPERTY--	
Acquiring property April 1st.....	7 9
Bank stock assessed to.....	36 60
Determined by court in contested suits on tax title.....	118 223
Land in two townships assessed to, where he resides.....	19 41
May redeem property when sold.....	109 192
Realty assessed to.....	13 21
Recourse of, when deprived of title by mistake.....	129 225
When the property is a specific part of realty, not divided is not liable to contribute for part sold.....	108 198
PARTNER--	
Liability of, for taxes.....	11 13
PATENT RIGHTS--	
Returned for taxation.....	24 50
PAWN BROKER--	
Definition and assessment of.....	15 33
PAYMENT OF TAXES--	
By compromise.....	128 248
By lien holder, becomes an additional lien.....	99 177
By tenant, may be returned from rent.....	99 178
By telegraph, telephone, etc., companies.....	141 11
Delinquent.....	89 123
Effect of partial.....	86 174
Failure of purchaser at tax sale to make.....	104 188
Failure of Treasurer to make.....	125 252
For redemption of property sold at tax sale.....	106 192
Penalty for non.....	88 192
State's portion, by County Treasurer.....	127 228
Time for.....	99 178
Treasurer to receive part.....	99 175
Treasurer to endorse and give.....	99 176
When, must be made.....	88 192

PENALTY—	Page.	PIPE LINE COMPANIES—	Page.
Against Treasurer still in force though the assessment is good	60 109	Assessment of	179 7
Against Assessor for failure to swear persons to their tax lists	60 411	Assessment of, certified to county	110 9
Against Treasurer for failure to settle with State	122 220	Definition and return of	436 45
Against County Auditor for failure to assess unlisted property	82 142	Definition of values of, to	139 7
Against railroads for failure to make return	47 86	Penalty for failure of, to report	137 6
For allowing female dog to run at large while in heat	144 10		
For conversion of property	32 25		
For failure to answer	32 37		
For failure to return	32 35		
For failure to answer subpoena of the State Board of Tax Commissioners	144 9		
For failure to pay bid at tax sale	104 188		
For false assessment	120 256		
For false return	144 9		
For false statements as to dogs	144 7		
For harboring dog, when tax is unpaid	144 9		
For keeping stock killing dogs	144 8		
For failure of telegraph, telephone, etc., companies to make return	141 11		
For failure of Township Trustee or Assessor to tax dogs	144 6		
State Board of Tax Commissioners to enforce	69 120		
PERSON—			
Defined	20 46		
Without property, affidavit of	20 45		
PERSONAL PROPERTY—			
Account of, to be made	23 50		
Assessor to return lists to County Auditor	67 105		
Deeds held for security, assessed as	13 24		
Defined	5 4		
Delinquent taxpayer may retain, levied upon until date of sale	91 155		
Description of	30 44		
Engines and machinery in manufacturing establishments listed as	15 32		
Equalization of assessments of, by State Board of Tax Commissioners	77 133		
Franchises assessed as	77 133		
In control of agents	9 11		
In transit	9 11		
Levy upon, for delinquent taxes	13 133		
Machinery and engines of railroads listed as	44 78		
Materials, tools, etc., for repairs of railroads listed as	45 81		
Of bankers, brokers, etc.	12 18		
Of bridge companies	12 18		
Of estates	8 11		
Of gas, water and hydraulic companies	11 17		
Of manufacturers	14 30		
Of merchants	14 29		
Of miners	8 11		
Of nonresidents	8 11		
Of persons removing from one township to another during the assessment period	12 20		
Of railroads to be reported to the County Auditor	46 83		
Of street railroads	12 18		
Owner of, on April 1st	7 9		
Payments, made on sale of property, exempt from taxation, to be listed as	13 22		
To whom taxed, when encumbered with mortgage	9 11		
When listed	7 8		

RAILROADS—	Page.	REAL PROPERTY—Cont.	Page.
Assessment of fixed by State Board of Tax Commissioners	73 120	Taxation of the leasehold estate of, exemption from taxation, and leases to another person	18 35
Assessment of rolling stock	161 1	Tax title to defeated, how	115 221
Definition of	79 137	The County Auditor to execute tax deed to	109 205
How assessed	45 83	Value of, in assessing telegraph, telephone, etc., companies	138 7
List of property to be returned to County Auditor	45 81	Valued by Assessor	135 36
Material for repairs, machinery, etc., listed as personal property and assessed locally	45 81	When multiplied, may be listed without names of owners	18 38
Real estate, other than right of way, assessed	45 82	Where listed when situated in more than one township	19 41
Return of for taxation	42 76		
Return of property to County Auditor	43 77		
Right of way not to be assessed to adjacent property holders	152 1		
Right of way, how described	43 78		
Statement of property to be made to Auditor of State	46 85		
Station houses, machinery, etc., taxed to the county or city, etc., where located	44 79		
RAILROAD TRACK—			
Defined and report of required	44 78		
How listed and assessed	44 79		
How described	43 78		
Reported to County Auditor	45 83		
Reported to Auditor of State	46 85		
REAL PROPERTY—			
Assessment of, equalized by the State Board of Tax Commissioners	74 120		
Assessment of, in newly incorporated towns	155 1		
Assessed to the owner or occupant	13 21		
Assessment of after partition	39 39		
Boards of Review to equalize assessments of	68 115		
Defined, lands and buildings thereon	5 4		
Deduction of mortgage indebtedness from assessments of	157 1, 2, 3, 4		
Description of lots	19 42		
Description of lands	19 42		
Exemption of, belonging to agricultural societies	163 1		
First assessment of	56 104		
Forest Reservations	158 1		
Invalid tax sales of	113 212		
Lands and buildings thereon	158 1		
Lien for taxes perpetual and attaches to	97 172		
Of railroads to be returned to County Auditor	45 83		
Of railroads, other than railroad tracks	45 82		
Owners to return list of	52 94		
Publication of, for sale	162 184		
Redemption of, when sold for taxes	162 184		
Redemption of, by insurance	162 184		
Redemption of undivided part of	162 184		
Redemption of undivided shares of	162 184		
Redemption of specific parts of	162 184		
Redemption of specific part of undivided tract of	162 184		
Redemption of, when held jointly	200 1		
Release of lien upon on account of illegal tax sale	150 1		
Right of way of railroads assessed as	44 78		
Sale of, for taxes	103 185		
State Board of Tax Commissioners to equalize	77 133		
Suit to quiet title to, on tax deed	116 222		

REAL PROPERTY—Cont.	Page.
Taxation of the leasehold estate of, exemption from taxation, and leases to another person	18 35
Tax title to defeated, how	115 221
The County Auditor to execute tax deed to	109 205
Value of, in assessing telegraph, telephone, etc., companies	138 7
Valued by Assessor	135 36
When multiplied, may be listed without names of owners	18 38
Where listed when situated in more than one township	19 41
REBATE OF TAXES—	
Where property has been destroyed after assessment	7 7
REDEMPTION—	
Auditor to make memoranda of	169 294
Auditor to determine part to be redeemed	168 292
Of land held jointly	168 292
Of property sold for taxes	168 292
Of property sold and belonging to issue	167 193
Of specific part of undivided	167 193
Of specific part of undivided	167 193
Of undivided part	167 193
Of land on compromise	168 292
Of undivided share	167 193
Recovery of partly redeeming, from the other party	168 201
REMOVAL—	
Of taxpayer from one township to another during assessment period, where assessed	12 29
Return of Treasurer in case of	83 164
Taxes of person removing, certified to county to which he has removed	94 165
REPEAL—	
Of all laws in conflict	142 12
Of sections 28, 29, 71	131 259
Of sections 217, 218, 219, 220	113
RETURNS—	
Assessor to make assessment of	24 51
Auditor of State to make, of companies on failure of companies to do so	42 75
Failure of waterworks, gas, etc., to make	40 73
In case of sickness, the Auditor may accept belated	53 101
Of Assessor to County Auditor	53 101
Of bridge and ferry companies	29 72
Of express companies	133 3
Of gas, manufacturing, mining, etc., companies	40 73
Of incorporated cities	47 61
Of insurance companies	29 67
Of manufacturers	14 29
Of merchants	14 29
Of money lenders	51 29
Of navigation companies	126 43
Of pipe line companies	15 28
Of pawnbrokers	15 28
Of Personal property	24 20
Of railroads to the County Auditor	45 83
Of railroads to the Auditor of State	46 85
Of sleeping car companies	134 4
Of telegraph companies	131 13
Of telephone companies	132 2

RIGHT OF WAY—	Page.	Sec.	STATE BOARD OF TAX COM- MISSIONERS—	Page.	Sec.
Definition of.....	45	78	Acts of legalized.....	72	132
Not to be assessed to adjacent property holders.....	152	1	Annual meetings of.....	73	129
Railroads of to report to County Auditor.....	43	77	Appointment of Commissioners and the composition of.....	68	117
ROADS—			Ascertains value per mile of tele- graph, telephone, etc., compa- nies.....	140	8
Assessment of, companies.....	41	74	Assesses property on appeal from County Board of Review.....	72	125
Companies to return.....	40	73	Assessment of counties, how equalized by.....	70	136
Levy for gravel.....	150	1	Call annual meeting of County Assessors.....	104	1
Limit of issue of bonds for con- struction of.....	151	1	Certifies assessment to Auditor (if of State.....	80	133
Taxes included in first install- ment.....	88	152	Classes of property considered by, in equalizing assessments.....	78	135
Unexpended balance of gravel, fund.....	155	1	Construes tax laws.....	69	120
ROLLING STOCK—			Determines levies, when.....	69	120
Of railroads, how assessed.....	44	80	Distributes values to counties.....	138	7
Reported to Auditor of State.....	40	85	Division of session, as to busi- ness.....	74	129
ROYALTIES—			Expenses of.....	75	129
Value of.....	21	48	Election of chairman pro tem.....	74	129
SAVINGS BANKS—			Enforces penalties.....	69	126
Assessment of.....	41	74	Examines books and papers.....	69	129
Report of.....	40	73	Examines witnesses.....	71	123
SCHEDULE—			Fixes initial assessments.....	69	120
Of personal property.....	23	50	Has all powers of the county boards.....	74	129
Finally filed with the Auditor.....	25	53	Has power to subpoena witnesses.....	73	126
State Board of Tax Commis- sioners may change.....	150	258	Liable for false assessment.....	130	256
SCHOOL LANDS—			Method of, in assessing telegraph, telephone, etc., companies.....	138	7
When sold, taxable.....	18	36	Makes rules for its government.....	69	120
SECRETARY OF STATE—			Makes report to the General As- sembly.....	69	126
Member of the State Board of Tax Commissioners.....	68	117	Makes regulations regarding ap- pals.....	72	125
SETTLEMENT OF TAXES—			May change tax schedule.....	130	258
May settlement with Treasurers.....	130	226	May compel county auditor to as- sess omitted property.....	81	142
Mistake in, with county corrected.....	122	226	May compel witnesses to answer.....	138	6
Treasurer's settlement with State in May.....	121	227	May prescribe form for tax re- ceipt.....	130	258
Treasurer's settlement with State in December.....	121	228	Oath of members.....	76	130
SHERIFF OF COUNTY—			Oath of secretary.....	76	130
Duty of, in sales for taxes in cities of more than one hun- dred thousand.....	162	1	Orders production of books and papers of corporations.....	71	123
Duties of, in collecting money from delinquent Treasurers.....	124	235	Power to subpoena witnesses.....	71	123
To execute to purchaser deed for land sold by order of court.....	118	223	Power to inspect books.....	16	34
To issue deed to land sold for taxes, when.....	116	222	Prepare a table of assessments made.....	80	138
To serve process for Board of Re- view.....	66	114	Prescribes forms of books and blanks.....	69	120
To serve subpoenas for Board of Tax Commissioners.....	75	129	Quorum of.....	71	121
SICKNESS—			Real and personal property, duty to equalizing.....	77	133
In case of, return may be made to County Auditor.....	34	58	Recognize changes in the law. Record of proceedings.....	71	121
SLEEPING CAR COMPANIES—			Record of proceedings published. Rules as to hearings.....	73	129
Assessment of by State Board of Tax Commissioners.....	73	129	Secretary of.....	74	129
Assessment certified to county.....	140		Special meeting of.....	77	132
Definition of and return of.....	154	6	Subpoena of witnesses.....	71	124
Failure to pay taxes.....	141	11	To look after the collection of taxes.....	69	120
Penalty for failure to report.....	137	5	To see that each county is visited once a year.....	69	120
			To see that assessments are made according to law.....	69	120

STATE TAX COMMISSIONERS—

Appointed by the Governor.....	68	117
Bond and oath of.....	69	118
Composition of.....	69	119
Do all work of board possible.....	73	126
Duties of.....	69	120
Ofs of.....	69	120
Vacancies and appointment.....	73	127

STATE TAXES—	Page.	Sec.	TAXES—Cont.	Page.	Sec.
Rate to be fixed by law.....	121	227	Collection of delinquencies in cities of more than one hun- dred thousand.....	105	1
To be paid into State Treasury in May and December.....	121	227	Collection by suit from com- plices, telephone, etc., com- panies.....	141	11
STEAMBOATS—			Compromise of.....	127	228
Returning for taxation.....	23	50	County treasurers to collect, on omitted property.....	101	182
Taxation of.....	9	21	Delinquent, list of, made by County Auditor.....	102	183
Where assessed.....	41	15	Delinquent, may be paid any time before date of sale.....	100	180
STOCK—			Delinquent and penalty thereon.....	88	152
Capital, of corporations, where assessed.....	10	12	Divided by Auditor into.....	86	145
Interest on exempted stock tax- able.....	13	26	Due tax collected and paid to township trustees.....	143	2
Share of, in banks return for taxation.....	23	50	For free kindergarten.....	172	172
Shares of, in banks assessable to owner.....	26	60	Lien of, perpetual.....	97	172
Shares of, in banks, where assess- able.....	8	11	Lien of, under former law.....	129	273
Shares of, in banks, assessable as personal property.....	5	4	Levy for collection of delinquent, by vote.....	172	1
Shares of, in banks, assessable for municipal purposes.....	39	66	Effect of partial payment of by Treasurer, may be recovered.....	100	179
Shares of, in building and loan associations assessed.....	48	80	Involved, charged, off the bank roll.....	125	240
Shares of, in building and loan associations, defined and taxed.....	157	4	Not invalid for want of form.....	158	1
Shares of, in corporations, where assessable as personal property.....	5	4	On forest reservation.....	158	1
Taxes a lien upon stock.....	38	65	On property in hands of guard- ians, executors, etc.....	94	169
Taxes upon stock payable by bank when holder fails to pay.....	38	65	Organization companies.....	170	24
			Of insurance companies.....	39	67
STREET RAILROADS—			Of unincorporated companies, collection by Treasurer.....	93	161
Assessed as other railroads.....	164	1	Overpaid by County Treasurer to counties.....	125	237
			Overpaid by County Treasurers to State.....	125	237
TAX DEED—			Paid by a lien holder, become an additional lien.....	99	177
Change of form by Auditor.....	112	297	Paid by an occupant of real es- tate may be retained from rent paid by an occupant, lien against owner.....	99	178
County Auditor to execute.....	109	295	Payment of, for redemption of land sold for.....	106	192
Fee for.....	110	296	Presumed to be assessed legally.....	119	224
Form of.....	110	296	Publication of list of delin- quents at illegal tax sale may recover.....	166	199
Title by, defeated, proof required to whom made when purchased else.....	115	221	Rate of, for county purposes to be fixed by.....	3	1
Suit to quiet title on.....	116	220	Rate of, for State purposes to be fixed by.....	3	1
Under former laws.....	102	290	Rebate of, on destroyed property, Road, payable in first in- stallment.....	85	145
			Road taxes included in first in- stallment.....	85	145
TAX DUPLICATES—			Road, payable in first install- ment.....	88	152
Abstract of to be sent to Auditor of State.....	87	119	State Board of Tax Commis- sioners to look after collection of To be estimated and extended by the Auditor.....	85	144
Additions to.....	86	119	Transferred from one county to another.....	94	165
Auditor to add and apportion taxes on.....	86	119	Treasurer's fees for collection of delinquent.....	148	119
Contents of.....	86	119	Treasurer to accept part payment of.....	99	175
Copy of, to be delivered to County Treasurer.....	86	117	Uncollected, for years, on ac- count of error, to be added.....	126	243
Correction of.....	86	117	Upon bank stock to be paid by owner.....	38	64
Made by County Auditor.....	85	114	Upon bank stock to be paid by bank when.....	38	65
Taxes estimated and extended on.....	85	114	Upon bridge and ferry com- panies, a lien.....	40	72
			Validity of, not affected by fail- ure of officers.....	136	21
			When payable.....	88	152

TAXPAYER—	Page.	TAX SALE—Cont.	Page.
Answers interrogatories	22 49	Surplus of bid at, paid to owner	104 188
County Treasurer gives notice of, of delinquencies	87 150	Title allowed for redemption of land sold at	106 192
Belonging to, relative property levied upon until date of sale	91 155	Title by, defeated, by proof	115 221
Having property mortgaged, allowed deduction	156 1	Treasurer may levy and dispose of property at, at any time	92 159
May return property to County Auditor in case of sickness	34 58	When, is not valid	114 215
Notified of the assessment of omitted property	59 108	When purchaser at, dies	115 216
Removal of, during assessment period, where assessed	12 20	When, are invalid	113 213
Returns property	23 20		
Values property	21 48		
TAX SALE—		TELEGRAPH COMPANIES—	
Auditor to act as clerk of	105 180	Annual returns to Auditor of State	131 1
Auditor to determine in partial redemption of land sold at, the part to be redeemed	108 199	Assessed by State Board of Tax Commissioners	73 129
Auditor to execute deed on	109 205	Assessment of, certified to counties	130 7
Auditor to make memorandum of redemption of land sold at	109 204	Definition of	131 1
Certificate of purchase at, issued	109 204	Failure of, to pay taxes	130 7
Certificate of purchase at, cancelled	112 210	Definition of	131 1
Change of form of deed on	112 207	Penalty for failure of, to make report	137 5
Deed on	109 206		
Deed for property on, under former law	112 208	TELEPHONE COMPANIES—	
Failure of purchaser at, to pay	104 188	Annual return of, to Auditor of State	132 2
Fee for deed on	112 208	Assessed by State Board of Tax Commissioners	73 129
Form of deed on	110 206	Assessment of, certified to counties	130 7
Guarantee of tax certificate on, by Treasurer	106 191	Definition of	131 1
Improvements on land made by purchaser at	109 203	Definition of	132 2
Invalid proceedings to	113 212	Penalty for failure of, to make report	137 5
In cities of more than one hundred thousand	165 1		
In cities of more than fifty thousand	162 1	TIMBER—	
Judgments, what have priority to title on	109 202	Returned for taxation	24 50
Lien, derived through illegal, returned when	150 1		
Manner of	152 158	TIME—	
Notice of given	102 137	For assessment by Assessor	21 48
Not more than enough land to pay taxes to be offered at	104 187		
Nonresidents not to bid at, until	104 187	TOWNS—	
Of more than one tract	104 187	Assessment of property in newly incorporated	155 1
Of part of realty	104 187		
Order of specific part not liable to contribute for partial sale	108 188	TOWNSHIP ASSESSOR—	
Property upon which partial payment has been made to be sold when	98 171	Affidavit of, attached to tax returns	56 102
Purchaser at illegal, may recover	106 191	Assesses bridge and County companies	40 72
Recovery of amount paid on in invalid	117 225	Assesses building and loan stock	48 89
Recovery of land when deprived of title through erroneous	120 225	Assesses certain property of railroads	46 84
Recovery of one owner from another amount paid at	108 201	Assesses city property	129 254
Redemption by insane of land sold at	107 193	Assesses omitted realty	57 104
Redemption of undivided part sold at	107 194	Assesses property on failure of owners to return	24 51
Redemption of undivided share sold at	107 195	Assesses railroad property as other property on failure of company to make report	47 86
Redemption of specific part sold at	107 196	Calls upon each taxpayer for list of lands	52 94
Redemption of specific part of undivided share sold at	107 197	Collects dog tax	142 1
Register of, kept by Auditor	113 211	Collects fines, when	145 11
Resale of property sold at, on order of the court	118 223	Compensation of	57 104
State's lien at, transferred, when suit to quiet title on deed by proceedings	116 222	Corrects list by adding omitted property, after due notice	58 108
		Corrects false list	57 104
		Deputies appointed by	23 61
		Determines quantity of land in a tract	51 91
		Distributes blanks	54 99
		Duty as to transient merchants	14 31
		Duty in assessing realty in newly incorporated towns	155 1

TOWNSHIP ASSESSOR—Cont.	Page.	TRANSFERS	Page.
Election of, Auditor to keep book of	49 90	Auditor to keep book of	87 149
Enters values of property in his record	55 100		
Examines buildings	54 98	TREASURER OF STATE—	
Examines forest reservations	59 10	Navigation companies to pay tax to	171 25
Examines officers of banks and fixes value of stock	37 61	Receives money from county treasurers in May	121 227
Failure of, to complete assessment within time does not vitiate	60 109	Receives money from county treasurers in December	121 228
Files with County Auditor reasons for assessment of omitted property	59 108	Refunds overpayments made by county treasurers	125 238
Fixes values where owners fail to return	33 56		
Fixes values of property	22 43	TRUSTEE OR AGENT—	
Gives receipt for dog tax	142 1	Real property assessed to	13 20
Lists blind, insane, etc.	53 95	Property in hands of, where assessable	9 1
Manner of valuing realty by	53 94		
Makes list of lands when owner fails to do so	53 94	UNDIVIDED REALTY—	
Makes memorandum of assessments to owner	56 103	Assessed without names of heirs	18 38
Makes report of false returns or failures to return to Auditor	55 101	Liability of shares for whole tax	18 38
Makes statement in case of sickness	32 55		
Notifies person of time allowed to return list of real estate	52 94	UNITED STATES—	
Penalty against, for false assessment	130 256	Buildings set upon lands of	9 11
Penalty against, for failure to swear taxpayer	60 111	Demand certificates of, returned for taxation	23 59
Penalty for failure to duty as to dog tax	144 6	Legal tender notes returned for taxation	23 50
Power to inspect books	16 34	Property of, exempt	6 5
Receives reports of water works, gas, etc., companies	40 75		
Reports collections of dog tax to County Auditor	142 3	VALIDITY OF ASSESSMENTS—	
Reports list of dogs upon which tax has not been paid to Prosecuting Attorney	143 5	Not affected by negligence of officers	126 241
Requires certificate from proper officer as to disputed assessments	12 20		
Restricted as to assessment of property adjacent to roads	152 1	VALUES—	
Returns list of personal assessments	57 105	How determined	21 48
Returns to County Auditor the personal property lists	60 110	How entered by Assessors	55 100
Revises assessment on demand of County Auditor	58 106	Of mines and quarries	54 97
Swears persons without property to statement	20 45	Of property of persons failing to make return or making false returns, how delivered	53 95
Turns over to Auditor reports of water works, etc., companies	41 74	Of realty, fixed	44 79
		Of water works, gas, etc., companies	41 74
TOWNSHIP TRUSTEE—		VEHICLES—	
Failure to duty as to dog tax	144 6	Power of cities to tax	153 1
Has stock killed by dogs appraised, and pays for it	145 12		
Receives report from Assessor as to dog tax	143 2	VOTE UPON TAX LEVIES—	
Turns over to county surplus dog fund	146 13	In cities, where	172 1
Registers all losses of stock killed by dogs	145 13		
		WABASH AND ERIE CANAL—	
		Property of assessable to	18 37
TRANSIENT MERCHANTS—		WATER CRAFTS—	
Assessment of	14 31	Where assessable	11 15
		WATER WORKS COMPANIES—	
		Assessment of	41 74
		Levy of special tax to pay for	132 1
		To report	40 73
		Property of, where assessable	11 17

APPENDIX.

OPINIONS
OF THE
Attorney-General of the State
RELATIVE TO
MATTERS OF TAXATION.

AGRICULTURAL SOCIETIES—Property Taxable.—Taxation is the universal rule. Exemption is the exception, and where specific authority can not be found for an exemption, property must bear its fair share of the public burdens. When we come to county fairs, however, I can find no provision for their exemption from taxation. Indeed, the tax law prescribes that all property shall be taxed save only those items named in Section 5 of the act of March 6, 1891, and it would be impossible to include the property of county fair associations within any of the properties named in that section. Ketchum, 1896, p. 38.

ADMINISTRATORS—Money in Hands Taxable.—Money in the hands of an administrator should be assessed against him for taxation. If final report has been made and approved and the money turned in to the Clerk for distribution, it should be assessed in the name of the Clerk as trustee. Smith, 1892, p. 43.

ADVANCEMENT—Money Advanced Not Taxable.—A advanced to his two sons, twenty-five years ago, \$500 each, and decided that upon the division of his estate they be charged with the money and six per cent. interest as advancements. The estate is in the hands of the widow during her life, and the division is to take place at her death.

I do not think this advancement is to be assessed and taxed. If the money is now in the hands of the sons it is taxable as so much money. Suppose it is spent or lost, it would not be subject to taxation. If it has been invested in property the property is taxable. But I find nothing that contemplates an advancement to be listed and taxed. The subject matter of it—whether money, property, or what not—is taxable. If this were not so, an advancement might have to pay tax levy after the subject matter of it had disappeared. Baldwin, 1882, p. 73.

ADVERTISING—In What Papers.—Legal advertising in cities of ten thousand or more inhabitants, must be published in a daily newspaper. In such cities, where they do not cover the entire area of the township in which they are located, the delinquent tax must be divided and that portion relating to property within the city must be published in a daily newspaper, and that part relating to property within the township, outside of the city, must be published in a weekly newspaper. Smith, 1892, p. 140.

AGENTS—Notes and Bonds in Hands of Agent.—All notes and bonds held by any agent in this State for a principal who resides out of the State must be listed by the agent in the township where he resides, regardless of the fact that they are taxed by the State in which his principal resides. Baldwin, 1882, p. 74.

BANKS, INCORPORATED—Assessment of Stock.—Section 61 provides how incorporated banks shall make their statement. The value of all real estate or other tangible property must be deducted from the valuation of the capital stock. The bank as a corporation is not chargeable with anything except real estate or other tangible property. The individual stockholders are charged with the value of the capital stock and must pay taxes thereon individually. In the township, town or city where the bank is located. Section 65 requires the bank officers to retain out of the dividends enough to pay the taxes on the stock. Nothing prohibits a bank, if it desires, from paying the taxes on all the shares of stock for its stockholders. Taylor, 1900, p. 128.

BANKS—Basis of Assessments.—The property of a bank is taxed upon the value of its capital stock, and not upon the specific property itself. The bank has no authority to deduct nontaxable securities, although they may enter into the value of its capital stock. Smith, 1892, p. 161.

BANKS—Credits Allowed to Bank.—A national bank is entitled to no credit except for the assessed value of its real estate where it does its banking business. A national bank has no lawful right to deduct from its capital stock the value of real estate aside from that occupied by it for banking purposes. It is entitled to no credit except the assessed value of its real estate where it does its banking business. The shares of stock must be taxed at their true cash value. From this value no per cent. can be deducted on account of probable losses or for unearned discounts or for worthless debts. Smith, 1892, p. 124.

BANKS—Credits Entitled To.—A national bank, in its corporate capacity, is entitled to no credits whatever. Smith, 1892, p. 82.

BANKS—Deductions From Stock.—A bank is entitled to deduct no debts from the value of its stock, but the individual owners thereof are entitled to make deductions of their bona fide indebtedness. Smith, 1892, p. 161.

BANKS—How Value of Is Ascertained.—Surplus funds and undivided profits of a banking association enter into the value of stock, and are subject to taxation. The property of a banking association is taxed according to the value of its stock; and in determining such value the taxing officer should be governed by the market or selling price of such stock. If there

be no market value, he must determine the actual value, taking into consideration the surplus and undivided profits. Smith, 1892, p. 78.

BANKS, UNINCORPORATED—Personal Property, Where Assessed.—Section 16 provides that personal property of such banks shall be listed in the township, town or city where such personal property is situated. Section 59 provides how the statement shall be made. Property of unincorporated banks is chargeable directly to the persons owning the same. Taylor, 1900, p. 127.

BANKS, PRIVATE—How Assessed.—Under the act of February 23, 1895 (Acts 1895, p. 39), it is the duty of the State Board of Tax Commissioners to see that private bankers return for taxation, and are assessed upon, the items mentioned in the first, second, third, fifth and sixth specifications of Section 59, and that the deduction mentioned in the eighth specification can only be made from the sum of the amounts mentioned in specification four. Ketcham, 1897, p. 105.

BANK DEPOSITS—Where Checks Have Been Issued Against.—Where property is sold on the first day of April, and a check given in payment therefor, the property should be assessed for taxation to the purchaser thereof, and the check, where the money has not been drawn thereon, should be assessed to the seller as a credit, from which the holder, if indebted, might deduct his indebtedness, and such purchaser would not be entitled to deduct the amount of such check from his deposit in bank, but would be required to return the full amount thereof for taxation. Ketcham, 1897, p. 130.

BANK DEPOSITS—Where Checks Have Been Issued Against.—A bank deposit against which a taxpayer has issued checks prior to the first day of April is not assessable against him, although the checks have not been presented or cashed, but should be placed upon the duplicate against the holders or owners of such checks; otherwise if the checks were issued on the first day of April. Smith, 1892, p. 103.

BOARDS OF REVIEW—No Per Diem for Treasurer or Auditor.—The County Treasurer and Auditor can not receive any per diem for services as members of the Board of Review. Taylor, 1900, p. 60.

BUILDING AND LOAN STOCK.—It is proper to require the holders of building association stock to return it for taxation, prepaid and fully paid, without any right of deduction, and partly paid or current, as a credit, from which the stockholder would be permitted to deduct his liabilities. Ketcham, 1897, p. 105.

BUILDING ASSOCIATIONS—Taxes by Whom and How Paid.—The shareholders of the associations pay the taxes. Where a shareholder has borrowed money on his shares the real estate is taxed to the shareholder. Shareholders who have not borrowed money are charged with the value of their shares. These shares are held as credits and are to be listed for taxation as other property. The value of these shares will represent all the property of the association. Taylor, 1900, p. 129.

CHARITABLE INSTITUTIONS—Asylum Maintained by Religious Society.—An asylum maintained by a religious denomination for members of that denomination is a charitable institution and its property exempt from taxation. Michener, 1888, p. 74.

CHARITABLE INSTITUTIONS—Temperance Organizations.—The property of a temperance organization is exempt from taxation. Michener, 1888, p. 196.

CHURCHES—Land of, When Exempt.—Land purchased for the benevolent intention of erecting buildings for church or educational purposes thereon, not exceeding forty acres, is exempt from taxation. Smith, 1892, p. 156.

CHURCHES—Parsonages Not Exempt.—Parsonages, not attached to church property by contiguous territory, and church property not used for religious worship are not exempt from taxation. Smith, 1892, p. 24.

CHURCHES—Parsonage of Pastor Not Exempt.—A parsonage erected for the convenience and accommodation of the pastor is not exempt from taxation. Hord, 1886, p. 22.

COLLECTION OF TAXES—Expenses—Printing.—The expense incurred by a county for printing, in connection with the collection of taxes, should be treated as a county expense and not as a charge against the State. Ketcham, 1897, p. 225.

COLLECTION OF TAXES.—It is the duty of county officials to collect all taxes, both State and county, and account for the same in the settlement with the Auditor of State.

Where the county authorities undertake to make an adjustment as to their own taxes, leaving the taxes that they were bound to collect for the State unpaid, and in any settlement to be made with the authorities, the Auditor of State should insist that taxes due the several funds of the State for those years with the penalties and the interest on them be accounted for and paid over to the State. Ketcham, 1896, p. 67.

CONCEALED PROPERTY—Duty of Assessors.—It is the duty of each Township and County Assessor to make out and report all cases where an effort to conceal property from taxation has been made and transmit a copy thereof to the County Auditor for use by the County Board of Review, and also to the Auditor of State for use of the State Board of Tax Commissioners. Smith, 1892, p. 70.

COLLEGE PROPERTY—Not Assessable, When.—The lands of a college constituting its endowment fund are not exempt from taxation. All college property is liable to special assessments. Michener, 1888, p. 120.

CORPORATIONS—A tax on the capital stock of a corporation and its tangible property, including its franchise, is not double taxation. Smith, 1892, p. 169.

CORPORATIONS—Manner of Assessment.—If the capital stock of an Indiana corporation is greater than the value of its tangible property, it alone is listed for taxation, but its tangible property, whether in the hands of a person in one township or in many townships, is not taxable. Smith, 1892, p. 163.

CORPORATIONS—Property of, Taxable to the Corporations.—Property of corporations organized under the laws of Indiana, whether held within or without this State, is taxable to the corporations in this State. Smith, 1892, p. 100.

CORPORATIONS—What Property Assessable.—Under Section 12 all corporate property including stock and franchises, except where some other provision is made by law, is assessed to the corporation itself. Such assessment must be made against the corporation and not the stockholders. This covers all corporations except banks, building associations and railroads. Sections 12 and 73 cover the general subject of assessment of corporations. It is the duty of the officers of the corporation to pay the taxes on corporate property. Taylor, 1900, p. 127.

COUNTY ORDERS—Taxes Due Should Be Deducted.—County Treasurers must deduct taxes due from the payee of county orders from the face of the order, and this right exists even though the order has been assigned. Michener, 1888, p. 182.

DEDUCTIONS—Bona Fide Indebtedness.—Bona fide indebtedness of a taxpayer may only be deducted from the list of credits enumerated in Section 33. Smith, 1892, p. 20.

DEDUCTIONS—From What Allowable.—Debts should not be subtracted from the value of corporate stock, though they should be treated as one of several factors in fixing its value. Smith, 1892, p. 92.

DEDUCTIONS—Time for Claiming.—A taxpayer who fails to claim deductions on account of bona fide indebtedness at the time of making out his list may do so before the County Board of Review. Smith, 1892, p. 163.

DOGS OWNED BY STATE—Exempt.—Dogs owned by the State and used by it in connection with any of the public, penal, charitable, or other institutions maintained by the State are exempt from taxation. Ketcham, 1897, p. 184.

DOG TAX.—The Act of March 6, 1897 (Acts 1897, p. 178), regulating the taxing of dogs, contains no emergency clause, and not being in effect April 1, 1897, it will not apply to the assessment for the year 1897.

DOG TAX.—The dog tax law of 1897 not being in force on April 1, of the year 1897, it can not be applied to any part of the period of assessment of such year, although the law may go into effect prior to June 1, the date of completion of assessments. Ketcham, 1897, p. 74.

DOUBLE TAXATION—As Relates to Corporations.—A tax on the capital stock of a corporation and its tangible property, including its franchise, is not double taxation. Smith, 1892, p. 129.

EQUALIZATION OF ASSESSMENTS—Right of County Board.—The county board has the right to equalize the real and personal property of a township by classes without giving notice. Taylor, 1900, p. 135.

EQUALIZATION—Assessment Made by Assessor To Be Set Aside.—Where inequalities are so general and flagrant in a township as to render the correction impracticable, it should be set aside and the county assessor should be required to do the work over as provided by law. Smith, 1892, p. 77.

EQUALIZATION—Power of Township Assessor.—The Township Assessor can not raise the assessment of real estate for the equalization of taxes without notice to the taxpayer whose assessment is raised. Taylor, 1900, p. 60.

EQUALIZATION—Power of State Board of Tax Commissioners.—Power to equalize, correct and add to assessment lists is fully conferred upon local boards of review. The State Board of Tax Commissioners possesses all the duties and powers of local boards, and additional powers. Smith, 1892, p. 110.

ESTATES—Deduction of Indebtedness. From the amount of credits (by which is meant whatever is due to the estate from any other person, company or corporation, in shape of labor, property or money, either secured notes, mortgages, or only by parol contract) deduct the bona fide indebtedness of the estate, viz., what the estate owes.

The indebtedness can only be taken from what is due the estate, and, if nothing is due the estate, then the amount of the indebtedness can not be taken from the amount of property owned by such estate, but must be assessed and taxes paid on both the estate's indebtedness and the value of its property. Baldwin, 1892, p. 72.

EXEMPTIONS—Property of Charitable Organizations.—The statute exempts from taxation every building used and set apart for charitable purposes, and the tract of land on which such building is situate, not exceeding forty acres. Also the personal property and endowment fund and interest thereon belonging to any charitable institution used and set apart for charitable uses.

If all or any part, parcel or portion of any tract or lot of land, or any building or personal property of such charitable institution shall be used or occupied for any other purpose than such charity, such property, part, parcel or portion shall be subject to taxation.

A statute conferring exemption from taxation in general terms, does not exempt property from special assessments for local improvements.

Property leased for business purposes, or diverted to secular use for gain, is not exempt from taxation, although the rent is devoted to charitable purposes. The use, in order to come within the terms of the exemption, must be directly in aid of the charitable purpose.

A corporation for business purposes, although such purposes may incidentally contemplate benevolent results, is not a charitable institution and is not exempt.

A beneficial society whose benefits and benevolence are confined exclusively to its contributing members is not an association for charitable uses within the meaning of the tax law.

A charitable institution to be exempt from taxation must be purely charitable.

A good charitable use must be public, not in the sense that it must be executed openly in public, but in the sense of being so general and indefinite in its objects as to be deemed of common public benefit. Hord, 1886, p. 22.

FALSE STATEMENT—Penalty for Making.—Any person or corporation giving a false or fraudulent statement of his property is liable to a penalty of not less than fifty nor more than five thousand dollars. Smith, 1892, p. 67.

FOREIGN CORPORATIONS—Shares of Stock Personal Property.—Under Section 4, all shares of foreign corporations, except national banks, owned by inhabitants of this State, are subject to taxation as personal property. Smith, 1892, p. 46.

FOREST RESERVATION—How to Set Aside Land For.—When the owner of land has filed with the Auditor the required affidavit the law fixes the appraisement for taxation at a dollar per acre upon the reservation, and it becomes the duty of the Auditor to place on the duplicate such reservation at the appraised valuation. This appraisement is the first appraisement and the law fixes the valuation. At each quadrennial assessment the Assessor must personally examine each reservation and ascertain if it has been maintained and preserved and if he so finds he shall then appraise the reservation at a dollar per acre. This applies to each quadrennial assessment. The affidavit may be filed at any time before the first day of April of the year for which he asks the exemption. It is not necessary that the owner should wait until the quadrennial assessment. Taylor, 1900, p. 134.

FORFEITED LAND—How to Regain Title.—If land has been forfeited to the State by exposure for sale for taxes, the only way in which the original owner can be reinvested with title is by purchase from the Auditor of State.

FRANCHISES—Are Assessable.—The franchises of railroads, street railway companies and other companies are subject to taxation. Smith, 1892, p. 45.

FRANCHISE—Subject to Taxation.—The franchise of a corporation doing business in this State, whether organized under the laws of Indiana or of another State, is subject to taxation, and should be appraised at its real cash value. Smith, 1892, p. 84.

GUARDIANS—Personal Property of and Where Assessed.—The personal property in the possession of a person or corporation as guardian

must be assessed for State and county purposes in the county where the court is situated by which the guardian was appointed or to which the guardian reports. For the purposes of local taxation, that is, township, town or city, property should be assessed in the township, town or city where the guardian and ward reside, provided they both reside in the same township, town or city.—Taylor, 1900, p. 136.

IMPORTED GOODS—When Assessable.—Where the importer has sold the imported package, or if it be broken for use or for sale by the importer, it ceases to be a part of foreign commerce, and loses its character as an import and is no longer exempt from taxation. Hord, 1886, p. 15.

INSOLVENT TAXES—Lien Against the Land.—Taxes dropped from the duplicate as uncollectible are a lien upon property which the debtor subsequently acquires. Michener, 1890, p. 4.

INSPECTION OF BOOKS—Right of Officers.—Township and County Assessors, County Auditors, and Boards of Review, the Auditor of State and the State Board of Tax Commissioners have the right to inspect and examine the records of all public officers, and the books and papers of all corporations and taxpayers in this State for the purpose of securing any information relating to the property thereof subject to taxation. Smith, 1892, p. 67.

LIEN OF TAXES—Is Perpetual.—A owns two lots and personal estate, and taxes accrue on all three. He sells one lot without paying the taxes on the personal property, and holds the other. The lot he holds can be sold for the personal tax that is unpaid.

And it makes no difference that the tax on the lot is paid. Taxes are a perpetual lien upon the delinquent's property, and can not be avoided by any sale thereof. The Treasurer's neglect to make the tax out of the personal estate, does not release the tax lien on the real estate. The Treasurer is liable on his bond for a false return, and even a sale of the real estate for taxes might be enjoined. But that would not release the lien, and the party seeking the injunction would have to tender the tax to the Treasurer, before he could be heard in court at all. Baldwin, 1882, p. 79.

LEVIES—Limit to Levies Not Affected by Act of 1899.—The limits of levies that formerly governed county and township officers are still in force, notwithstanding the passage of the county and township reform laws.—Taylor, 1900, p. 51.

LODGE PROPERTY—Only that portion of a building owned by a lodge of Odd Fellows which is used exclusively for lodge purposes should be exempted from taxation.

LODGE PROPERTY—The personal property used in a lodge room of Odd Fellows is exempt from taxation. Ketcham, 1897, p. 165.

LODGES—Funds Not Assessable.—The "Orphan's Fund," belonging to an Odd Fellow's lodge is not liable to taxation. Baldwin, 1882, p. 73.

LODGES—Part of Property Exempt.—Lodge property, used for fraternal purposes, is exempt from taxation, except that such part of the property as is used or rented for business purposes is subject to taxation. Smith, 1892, p. 39.

LIMITATIONS—Statute of Limitations Not Applicable in Matters of Taxes.—The statute of limitations does not prevent an examination of the books of any corporation owing taxes to the State, pursuant to any law which authorizes an examination. Taylor, 1900, p. 133.

LIMITATIONS—Time Limit.—Tax officers may go back to at least 1872 in placing omitted property upon the tax duplicate. Smith, 1894, p. 45.

MANUFACTURING AND MINING PROPERTY—How to Ascertain Value Of.—It is the duty of the State Board of Tax Commissioners in an appeal from the Board of Review of the county relative to the taxation of a corporation organized under the manufacturing and mining laws of the State to ascertain the value of the intangible property of the company and of the capital stock in excess of the value of the tangible property, and thereupon assess to such company, when so ascertained, of the tangible property only in the event that it shall exceed the value of the capital stock, and of the capital stock in addition in the event that it shall appear that it has a value in excess of the value of the tangible property, and certify such assessment to the Auditor of State, to be by him certified to the County Auditor. Ketcham, 1897, p. 132.

MONEY LOANED BY A FRATERNAL ORGANIZATION—How Listed.—Money loaned by a fraternal society should be listed for taxation, not as a credit from which deductions of indebtedness are allowed, but as money loaned under item two, personal property, Section 5 of the act of March 6, 1891, as amended in 1895, from which there is to be no deduction. Ketcham, 1897, p. 131.

MORTGAGE NOTES—Taxable When Surrendered.—Mortgage notes on land in Indiana, held on the first day of April are subject to taxation, regardless of the fact that the mortgaged property was subsequently surrendered in payment of the notes. Smith, 1892, p. 155.

MORTGAGES—Demand, Not Mortgage, Taxable.—Demands secured by a mortgage, are taxable at their appraised value. You can not tax a mortgage, but can the demand, or amount secured. The amount secured by the mortgage, is usually money loaned, within the meaning of number two, of the schedule for taxation.

Demands for purchase money come under this clause. Baldwin, 1882, p. 72.

MORTGAGES—Held by Nonresidents.—Loans made by residents of the State and afterwards sold to persons not residing within the State, are not subject to taxation in this State. Substantially, this question was presented to the Supreme Court of the United States in the case of the State on foreign held bonds. (15 Wall. 300). Wherein it was held that the power of a State is limited to persons, property and business within her jurisdiction. Ketcham, 1896, p. 25.

MORTGAGE DEDUCTION LAW.—1. The affidavit required by Section 2 of said law may be sworn to before any person authorized to administer oaths (this includes notaries public), and must be filed with the Auditor before the first day of May and on or after the first day of April of each year showing the mortgage indebtedness on said first day of April. Said affidavit must be sworn to by the person securing the deduction personally. A husband can not make an affidavit for his wife, nor can she for him.

2. The Auditor or Recorder is not required to furnish blanks to persons wishing to secure the benefits of said deduction, but the Auditor may swear persons to the affidavit required and charge a fee therefor of 25 cents, which fee, however, belongs to the State and not to the Auditor personally.

3. The Assessor has nothing whatever to do with the mortgage deduction law, and is not authorized to swear persons to the affidavit required by Section 2.

4. Under no circumstances can one person legally secure more than \$700 deduction under this law, no matter how many mortgages he may have given or assumed. Neither can he deduct his mortgage indebtedness from the assessed valuation of his real estate and then use that portion of his mortgage indebtedness so deducted as a deduction from his personal credit.

5. If a husband and wife own real estate together, as tenants by entireties, they must join in the affidavit, and are entitled jointly to not more than \$700 deduction. That is, each can not secure the benefit of \$700. But if the husband and wife own real estate separately, they are each entitled to the deduction provided for in the law, as are all other taxpayers owning real estate in their own names.

6. Firms or partnerships (limited or otherwise) and corporations are not entitled to any deduction upon their mortgage indebtedness under this law.

7. Improvements on real estate are technically part of the real estate, provided such improvements are permanent. Therefore, in ascertaining the value of mortgage premises, all improvements should be taken into consideration.

8. Under no circumstances can a deduction from real estate exceed one-half the appraised value of such property for taxation. This means the appraised value as shown on the duplicate for the year in which the deduction is prayed.

9. Man and wife may sign affidavit as owners as tenants by entireties of property and obtain deduction of \$700, or not to exceed one-half the value of the property.

10. One joint owner can not make an affidavit for the benefit of the other joint owner. It is a personal privilege.

11. A guardian can make an affidavit for his ward.

12. One heir can not make an affidavit for all the heirs.

13. Each heir may make deduction for his proportion of an undivided interest in lands. Each heir, however, can not claim a deduction of \$700 from the entire value of lands owned by heirs as tenants in common.

14. If the description of the land is substantially correct, the deduction should be made. The description should be sufficient to show the land intended to be described.

15. It is simply the duty of the Auditor to receive the affidavits provided for in the mortgage deduction law for filing. The Board of Review passes on the validity of the claim for deduction.

16. The word "mortgage," as used in this law, includes mortgages held by nonresidents of this State, as well as school fund mortgages and mortgages held by building associations. But only one claim for deduction can be made upon any one mortgage. A bond for a deed, a vendor's lien, or a ditch assessment is not a mortgage, and does not entitle the owner of the land to a deduction thereunder.

17. One person can not make an affidavit for the benefit of another.

18. The words "assessed valuation of the mortgage premises" include improvements.

19. The taxpayer is entitled to his deduction, no matter how many tracts his land may be divided into, but he can claim but one deduction; i. e., he can not have more than one deduction, no matter how many mortgages he may have on various tracts of land, or upon the same tract.

MUNICIPAL LEVIES—When to Be Made.—Municipal levies, under the general tax law, can not be made until after the work of the county board of review has been completed and its conclusions are available in guiding the local authorities. Smith, 1892, p. 49.

NEWSPAPER PLANT—Taxation Of.—There is no specific provisions in the statutes of this State providing definite and distinct methods of ascertaining the value of newspaper property as contradistinguished from any other property.

It is the duty of the State Board of Tax Commissioners to ascertain as best it can the true cash value of a newspaper plant as it actually is, for the purposes for which it is used, taking into consideration all the incidents of the property, and assess it at such value for taxation, and leave for the courts to determine whether in such assessment elements of value were considered which were beyond the power or jurisdiction of the board to consider. Ketcham, 1897, p. 218.

NOTES AND MORTGAGES GIVEN FOR PURCHASE-MONEY AT COMMISSIONER'S SALES.—Notes and mortgages held by commissioners appointed by the Circuit Court, given for the purchase-money of property, are taxable to the commissioners.

Notes and mortgages given for the purchase-money of property sold by commissioners appointed by the court, which have been assigned, should be taxed to the holders. Ketcham, 1897, p. 112.

NONRESIDENTS—Property of Assessable to Agent.—The personal property of nonresidents should be assessed to the owner or person having control thereof in the town or city where the same is located. Smith, 1892, p. 163.

NOTICE—As to Meeting of County Boards of Review.—Aside from the general notice provided by law for the meeting of county boards of re-

view, no notice is required for such boards to make a general change in the assessment for a given township. Smith, 1892, p. 77.

OMITTED PROPERTY—Notice Required in Placing it on Duplicate.—Before omitted property can be placed on the duplicate, or the value of property already returned, increased, by the county board of review, a notice must be given by a publication containing the names of the persons whose property is to be affected by it, in writing, certified by the sheriff at least three days before the matter comes up for hearing. Smith, 1892, p. 65.

OMITTED PROPERTY—Appearance Before Auditor.—Where, under the act of March 4, 1897, D is notified to appear before the County Auditor and show cause why certain property should not be assessed against him, it is the duty of D to appear in person and not by attorney; and if he fails to appear in person, or appears but fails to show cause why the omitted property should not be assessed, the assessment shall be made by the Auditor.

OMITTED PROPERTY—Appearance Before Auditor—Refusal to Answer Questions.—Where one appears before the County Auditor to show cause why certain property should not be assessed, and refuses to answer proper questions as to the property sought to be assessed, he may be indicted by the grand jury under Section 8466 and 8467 Burns' R. S. 1894. Ketcham, 1897, p. 107.

OTHER STATES—Property of Subject to Taxation.—Where another State owns lands within the limits of Indiana, it acquires its estate subject to all the incidents of ownership, and is subject to taxation. Hord, 1886, p. 34.

PART PAYMENT—Treasurer Must Accept.—"May a Treasurer refuse to take the taxes due on any given piece of real estate if tendered to him by one having an interest therein, whether delinquent or not, unless the taxes on the personal property assessed to the same person in whose name the land stands upon the tax duplicate, are paid at the same time?" Any person having an interest in such real estate has a right to pay the tax due thereon, without regard to such personal tax, and such Treasurer is bound to receive the same.

Not only such person may pay the tax due on the land, but he may specify any part thereof that he desires to pay the tax assessed upon, and compel such Treasurer to accept such tax, without regard to any personal tax that may be a lien thereon. But such payment does not release such land from the lien of such personal tax; yet the Treasurer could be compelled to first exhaust such personal property before the real estate could be sold, and he would be compelled to sell other real estate held by the owner of the real estate upon which the taxes were paid, if such former real estate was held by such owner at the same time the lien for taxes attached to such real estate upon which said taxes had been paid. Baldwin, 1882, p. 75.

PART PAYMENT—Taxpayer Must Pay Either All His Delinquent or All His Current.—Unless a taxpayer pays all of his current tax that is due, or all his delinquent tax, you are not bound to accept it. In other words, you are not bound to take a partial payment of one tax.

A taxpayer has a right to pay off either his current or delinquent tax, as he sees fit and directs. If he gives no direction how the payment is to be applied, then the Treasurer can apply it as he chooses.

It is your duty to exhaust all a man's personal property before advertising his real estate. He has a right to turn out his real estate to be first sold so as to protect the personalty.

I know of nothing that makes it your duty to refuse to receive current unless delinquent taxes are first paid. Baldwin, 1882, p. 76.

PERSONALTY—Tax Against a Lien on Land of Owner.—Where A holds a mortgage on the land of B, which he forecloses and buys in for the debt, such land is liable for all the taxes due thereon, up to the date of the sale, at least, and also for all the taxes upon the personal property (including poll tax) of B which are due and unpaid at such sale. Before the land can be sold B's personal property must be exhausted, but if it had been destroyed or could not be found so that a levy upon it could be made, then in such case you can proceed at once against the land, even if A had purchased it. Baldwin, 1882, p. 80.

PERSONAL PROPERTY—Having Situs in This State, Taxable.—Personal property having a situs in this State, although the owner may reside in another State, is subject to taxation in this State; and personal property, whether within or without this State, owned by persons residing within this State, is subject to taxation in this State, though it may have been taxed by the authorities in another State. Smith, 1892, p. 129.

PERSONAL PROPERTY—Township Where Assessable.—Tangible personal property must be listed in the township where it is situated; moneys, bonds, stocks, money loaned, etc., in the township wherein their owner resides.

But personal property connected with a farm must be listed in the township in which said farm is situated, or in which the principal place of business of such farm is situated. Baldwin, 1882, p. 73.

PERSONAL PROPERTY—Of Nonresidents, Having Situs in This State.—Personal property having a situs in Indiana, though the owner may reside elsewhere, is subject to taxation in Indiana, and personal property, whether within or without the State, owned by persons residing in Indiana, is subject to taxation in Indiana, though it may have been taxed by the authorities in another State. Smith, 1892, p. 129.

PERSONAL PROPERTY—Township Where Taxable.—Personal property subject to taxation in the township where the owner resides. Where he is a nonresident such property is subject to assessment in the township where it has a legal situs. Smith, 1892, p. 41.

PERSONAL PROPERTY—On a Farm, Where Taxable.—Tangible farm property is to be taxed in the township where the farm is situated

upon which the property is used. If the farm lies in two townships in the same or different counties, the personal property upon it is to be taxed in the township where the principal place of business is situated. This means the principal dwelling house. If the property is sometimes used upon one farm and some times upon another, it is to be assessed where it is found on the first day of April. Michener, 1888, p. 44.

PERSONAL PROPERTY—Tools of a Contractor.—The tools and machinery of a contractor, as well as material owned by him and not in position, is assessable to him as personal property on the first day of April in the township where it is located. Smith, 1892, p. 45.

PERSONAL PROPERTY—Situs Of.—The situs of personal property in process of manufacture is the jurisdiction within which it is found on the first day of April. Smith, 1894, p. 21.

PERSONAL PROPERTY.—Tangible personal property actually in this State is subject to taxation. Hord, 1886, p. 18.

RAILROADS.—The phrase "not included property specifically taxed," in Section 76, is without application and has no force. Smith, 1892, p. 40.

REAL ESTATE.—Real estate for which the State has issued a contract to convey is subject to taxation. Michener, 1888, p. 12.

REFUNDED TAXES—When and How.—Where money has been received by the State, and under an express statute, refunded for it and in its behalf by a county, the money thus received and held by the State is so held in trust, and must be refunded upon a proper showing without reference to the time it has been in the State's possession. Under the statute, taxes which have been wrongfully assessed must be refunded upon proper proof, and the State's portion of the amount so paid by the county must be returned by the State to the county treasury out of which such sum has been advanced. The proper time and place for the adjustment of county claims against the State or State claims against the county is in the semiannual sheet. Smith, 1892, p. 138.

REFUSAL TO ANSWER—Is An Offense and Should Be Prosecuted.—The refusal of any person to answer interrogatories or submit for inspection books or records within his keeping should be reported to the prosecuting attorney of the circuit and an affidavit promptly filed against the offender. It thereupon becomes the duty of the prosecuting attorney to prosecute such person for the offense. Smith, 1892, p. 70.

REFUSAL TO MAKE RETURN—Penalty For.—It is the duty of the County Auditor to add fifty per centum as penalty to the value of the property of any taxpayer who shall refuse to make and deliver to the assessor a proper schedule and statement of his property. Smith, 1892, p. 67.

REFUSAL TO MAKE RETURN—Penalty For.—Where persons or corporations refuse to file a sworn statement of their property, the assessor must proceed with the examination of any person or persons hav-

ing a knowledge thereof, and to examine such books and papers as may come to hand, for the purpose of determining, as nearly as possible, the character and amount of such property. The assessor's valuation, thus reached, should be filed with the County Auditor, and that officer should in turn arbitrarily add to the estimate made by the assessor, fifty per centum of the value so returned. Smith, 1892, p. 70.

ROAD TAXES—When Levy for is Made.—The levy of taxes for road purposes should be made in September, and the taxpayer is permitted to work out tax during the year after the list is delivered to the Trustee by the Auditor. Ketcham, 1895, p. 43.

STATE BOARD OF TAX COMMISSIONERS—Expenses Of.—The necessary costs and expenses of the State Board of Tax Commissioners should be paid out of the State Treasury on warrants of the Auditor of State. The expenses of the State Board, carefully scheduled and certified to by the State Board, form a sufficient authority to the Auditor of State to issue his warrant in favor of the persons entitled to the several sums due as therein set forth, which should be paid out of and charged against the general fund. Smith, 1892, p. 131.

TAX CERTIFICATE.—The mere fact that the tax duplicate shows that personal property stands in the name of the taxpayer will not authorize you to withhold the deed. If no other obstacle is in the way you should issue it at once.

If the tax certificate contains the wrong description, you must then go to the records of tax sales and issue a deed for the land actually sold, regardless of the certificate's description. Baldwin, 1882, p. 81.

TIME FOR APPEAL.—In Counting Time, Sunday. When the Last Day is Excluded.—The County Board of Review adjourned July 18, 1890; a taxpayer prayed an appeal giving notice on Monday, July 24, 1890. Under the provision of the statute that where the last day for an appeal is Sunday it shall be excluded, this appeal was taken in time. Taylor, 1900, p. 130.

1014

**END OF
TITLE**